

1 IN THE UNITED STATES DISTRICT COURT  
2 FOR THE DISTRICT OF NEW MEXICO  
3 UNITED STATES OF AMERICA,  
4 Plaintiff,  
5 vs. NO: CR-15-4268 JB  
6 ANGEL DELEON, et al.,  
7 Defendants.

8  
9 Transcript of excerpt of testimony of  
10 ROY MARTINEZ  
11 February 16, 2018  
12  
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1 THE COURT: All right. Mr. Martinez, if  
2 you'll come up and stand next to the witness box,  
3 and I'll swear you in.

4 Okay. If you'll raise your right hand to  
5 the best of your ability before you're sworn.

6 ROY MARTINEZ,  
7 after having been first duly sworn under oath,  
8 was questioned, and testified as follows:

9 THE COURT: Be seated and state your name  
10 for the record, and spell your last name.

11 THE WITNESS: Roy Martinez.  
12 M-A-R-T-I-N-E-Z.

13 THE COURT: Mr. Martinez, Mr. Castellano.

14 MR. CASTELLANO: Thank you, Your Honor.  
15 May I have a moment to approach counsel?

16 THE COURT: You may.

17 DIRECT EXAMINATION

18 BY MR. CASTELLANO:

19 Q. Good morning, Mr. Martinez.

20 A. Good morning.

21 Q. Were you one of the defendants initially  
22 charged in this case?

23 A. Yes, sir.

24 Q. And as a result of the charges, can you  
25 tell the members of the jury whether you pled guilty

1 to some charges?

2 A. I pled guilty to conspiracy to kill Gregg  
3 Marcantel and Dwayne Santistevan.

4 Q. As part of that plea, did you enter into a  
5 plea agreement with the United States?

6 A. Yes, sir.

7 Q. And with that plea agreement, was there  
8 also what's called an addendum to the plea  
9 agreement?

10 A. Yes.

11 MR. CASTELLANO: Your Honor, at this time  
12 I move the admission of Government's Exhibits 688  
13 and 689.

14 THE COURT: Any objection?

15 MR. VILLA: No, Your Honor.

16 THE COURT: Not hearing any objections,  
17 Government's Exhibits 688 and 689 will be admitted  
18 into evidence.

19 (Government Exhibits 688 and 689  
20 admitted.)

21 MR. CASTELLANO: May I publish to the  
22 jury, Your Honor?

23 THE COURT: You may.

24 BY MR. CASTELLANO:

25 Q. Mr. Martinez, I'm going to show you

1 Government's Exhibits 688. There is going to be a  
2 screen to your left, if you can see it, and there is  
3 also a screen here up against the wall. Are you  
4 able to recognize that document, sir?

5 A. Yes.

6 Q. And what is it?

7 A. It's my plea agreement.

8 Q. Let me turn your attention to the second  
9 page of that agreement. And did you understand that  
10 for each of those counts, which were Counts 9 and 10  
11 in your indictment, conspiracy to murder, each  
12 carried a term of ten years for each of those  
13 counts?

14 A. Yes.

15 Q. Do you understand that your total exposure  
16 then could be up to 20 years?

17 A. Yes.

18 THE COURT: Mr. Martinez, are you able to  
19 either move your chair or move the microphone a  
20 little closer to you? Why don't we lift that  
21 microphone up a little bit? Let's try that.

22 Q. And you mentioned you pled to two  
23 conspiracies, one to murder of Gregg Marcantel and  
24 the other Dwayne Santistevan. Can you tell the  
25 members of the jury who you agreed with in those

1 charges.

2 A. I agreed with Pup, and Baby Rob, and Eric  
3 Duran.

4 Q. And who is Pup?

5 A. Anthony Baca.

6 Q. Let me turn your attention to Government  
7 689. Can you see that document, sir?

8 A. Yes.

9 Q. What is it?

10 A. It's part of my plea. My agreement to  
11 testify.

12 Q. And I see you're squinting a little bit  
13 today. Do you normally wear glasses?

14 A. Yes.

15 Q. Do you have your glasses today?

16 A. No, they're broken.

17 Q. If you have any difficulty seeing  
18 anything, will you let us know and we'll bring you  
19 the documents closer?

20 A. Yes. I can see them.

21 Q. As part of this agreement, what did you  
22 agree to do?

23 A. I agreed to testify and tell the truth  
24 about my role in everything about the SNM.

25 Q. And as part of this agreement, do you

1 know -- or do you understand that your sentence  
2 could be reduced for truthful testimony?

3 A. Yes.

4 Q. And do you understand who ultimately makes  
5 that decision?

6 A. Yes.

7 Q. Who makes that decision?

8 A. The judge.

9 Q. Sir, I want to turn your attention now  
10 to -- we'll start with Government's Exhibits 568 to  
11 573, which have already been admitted, beginning  
12 with Exhibit 568. Who is that person?

13 A. That's me.

14 Q. Can you tell the members of the jury if  
15 you were arrested on December 3, 2015?

16 A. Yes.

17 Q. Following that arrest, then, were you  
18 basically processed and photographed?

19 A. Yes.

20 Q. Let me turn to 569. I'm drawing your  
21 attention to your abdomen here, starting with -- I'm  
22 going to circle two things on the left side of your  
23 abdomen. What have I circled there?

24 A. That's VSJ 16; that's for San Jose Street  
25 Gang.

1 Q. Were you ever a member of that gang?

2 A. Yes.

3 Q. When did you first become a member?

4 A. When I was about 13, 14.

5 Q. How did you get into that gang?

6 A. I got ranked in.

7 Q. And how -- can you tell the members of the  
8 jury how that process works?

9 A. I got -- you know, fought my way through  
10 about five, six people, six other gang members. And  
11 once I took that beating, I was pretty much a gang  
12 member after that.

13 Q. Where is that gang located?

14 A. In Albuquerque, New Mexico, on the south  
15 side.

16 Q. I'm going to now circle a tattoo on the  
17 right side of your abdomen. What have I circled  
18 there?

19 A. A Zia with the SNM inside of it.

20 Q. What is that tattoo?

21 A. That's Sindicato de Nuevo Mexico. That's  
22 my -- what we call a plaquiaso.

23 Q. Which is what?

24 A. It's a symbol, a plaque, to represent that  
25 you're part of that gang.



1 Q. So are you now or at some point were you  
2 an SNM Gang member?

3 A. Yes.

4 Q. When did you first join that gang?

5 A. In 1995.

6 Q. Let me turn your attention to Exhibit 570.  
7 And what does the 16 stand for in this photograph?

8 A. 16 stands for East Side San Jose. It's  
9 just a number we had for the East Side.

10 Q. And is there another side to the San Jose  
11 gang?

12 A. Yes, it's South Side.

13 Q. And even though you had an East Side and a  
14 South Side, were they still considered one gang, or  
15 were they separate gangs?

16 A. Yeah, we're still considered one.

17 Q. Exhibit 571. While we're doing that, do  
18 you have any other SNM tattoos?

19 A. No, sir, just on my neck.

20 Q. Let's turn to Exhibits 571 and 572. Where  
21 did you get these tattoos?

22 A. Some in prison, some on the streets. The  
23 SNM I got in prison.

24 Q. Who gave you that tattoo, if you remember?

25 A. Some white boy that was doing time with us

1 at the time. He was an artist.

2 Q. And I'm going to circle on your right  
3 shoulder here something else. What have I circled?

4 A. My nickname is Shadow.

5 Q. So are you also known as Shadow?

6 A. Yes.

7 Q. And is there anyone else in the gang known  
8 as Little Shadow?

9 A. Yes.

10 Q. Who is that person?

11 A. Billy Cordova.

12 Q. Turning next to 573, I want to go over  
13 some of your criminal history with you. Can you  
14 tell us whether in 1993 you were convicted of  
15 unlawful use of a motor vehicle?

16 A. Yes.

17 Q. And in that case were you sentenced to  
18 prison time at all?

19 A. No.

20 Q. Also at that time, this is a reminder, in  
21 1993, were you an SNM Gang member?

22 A. No.

23 Q. Turning to 1994, were you convicted of  
24 aggravated assault including a firearm enhancement?

25 A. Yes.

1 Q. And what happened as a result of that  
2 conviction?

3 A. I was sent to prison for three years.

4 Q. Where did you end up in prison? Which  
5 facility?

6 A. The Main penitentiary.

7 Q. Is that the one they call Old Main?

8 A. The Old Main, yeah.

9 Q. About how old were you at that time?

10 A. About 21, maybe.

11 Q. What happened when you first arrived at  
12 the prison facility? Did you run into anybody you  
13 knew?

14 A. Yes.

15 Q. Who did you run into?

16 A. A couple of the homies from San Jose. And  
17 the rest I really didn't know. They were just a  
18 bunch of old-timers. I didn't really know anybody.

19 Q. Did you run into somebody named Mike  
20 Dallas?

21 A. Yes.

22 Q. Who was Mike Dallas?

23 A. He was an LC.

24 Q. What's an LC?

25 A. Los Carnales, another clique at the time.

1 Q. What was your relationship with Mike  
2 Dallas?

3 A. I really didn't have a relationship with  
4 him. I had a run-in with him over a girl, something  
5 that happened on the streets prior to going to  
6 prison. His wife seen me in the visit and said I  
7 was the one that got his brother, beat up his  
8 brother. And so he said that I got one of his  
9 homies -- I guess because her brother was LCL, so he  
10 thought I was -- I guess he had to do something  
11 about it, or whatever. So that's where it all  
12 started.

13 Q. You mentioned LCL. What is that?

14 A. Los Carnales Locos.

15 Q. Was that the same gang as Los Carnales, or  
16 were they --

17 A. Well, they were claiming it on the  
18 streets. But at the time, I really didn't even know  
19 either one of them.

20 Q. So when you had a confrontation with Mike  
21 Dallas, was that on the streets, or was it in  
22 prison?

23 A. It was in prison.

24 Q. What happened as a result? You said that  
25 you thought he felt he had to do something about

1 what happened on the streets. What eventually  
2 happened?

3 A. Well, he called me out, and said he was  
4 going to decide my fate; I guess decide what he was  
5 going to do, him and his clique, you know, what they  
6 were going to do. And in the meantime, I was just  
7 to wait. And eventually, he called me out to the  
8 yard. We went out to the yard. And it was going to  
9 be one-on-one. I had two shanks. He had one. And  
10 the best man win, you know, whoever survives, or  
11 whatever.

12 Q. Where did you get the shanks?

13 A. Little Chaparro was SNM. He volunteered  
14 to help me to go against Mike Dallas, him and Mosco.

15 Q. And at this point are you an SNM Gang  
16 member?

17 A. No.

18 Q. You mentioned the name Mosco. Who is  
19 that?

20 A. Matthew Cavalier.

21 Q. All right. So what happens out in the  
22 yard?

23 A. We go to yard. We were about to get it,  
24 and he starts making a scene with his shank and  
25 taking off his shirt, like he was, like, going crazy

1 like, you know. And the COs seen him in the tower,  
2 and they came and tackled him, locked him up.

3 And later on that night, because of what  
4 happened, Chaparro got mad, and they stabbed two LCs  
5 in the cell block 4 at the time.

6 Q. Do you remember Chaparro's real name?

7 A. I think so. It's Manuel -- I can't  
8 remember.

9 Q. Okay. And what was the relationship at  
10 that time between SNM and the Los Carnales?

11 A. They had a peace treaty, from my  
12 understanding. I really didn't know. I was a young  
13 kid, just coming into prison, so I didn't know the  
14 politics or anything. But from what I found out  
15 later, they had a peace treaty going, you know, some  
16 of them, between Marty Barros, RB, and a few of  
17 them. And then the LCs, they had a peace treaty.  
18 And so I guess, when that stabbing happened, that  
19 broke the peace treaty. When Chaparro did that, it  
20 broke the peace treaty.

21 Q. Who is Marty Barros?

22 A. He was a leader of SNM at the time.

23 Q. And how long had you been in prison before  
24 this confrontation happened?

25 A. I really don't know.

1 Q. So what happened with you, then, as a  
2 result of this peace treaty being broken?

3 A. As a result, I guess some conversations  
4 happened where they wanted -- in order to make  
5 another peace treaty, that they wanted to take me  
6 out, because they said I was a problem; I  
7 disrespected one of their brothers, the LCs. So  
8 they wanted to take me out.

9 And so Marty agreed, and said, "We'll kill  
10 him. We'll take him out, and we'll go back to  
11 having a peace treaty."

12 Q. Who was supposed to take you out?

13 A. Mosco.

14 Q. Is that Matthew Cavalier?

15 A. Yes.

16 Q. And did Matthew Cavalier actually tell you  
17 about this hit?

18 A. Yes. He called me out one day, and told  
19 me that -- what their plans were, that they wanted  
20 to hit me -- they wanted him to hit me. And he was  
21 asking me to throw ice on the CO, so I could PC and  
22 get out of there, so I wouldn't have to get hit.  
23 Because he didn't want to do it, because he liked  
24 me, I guess, you know.

25 Q. So, yeah, what happens when you throw ice

1 on a corrections officer?

2 A. They'll lock you up for assault.

3 Q. And what does it mean to PC?

4 A. Protective custody. You know, your life  
5 is in danger, or something. So it was a PC move, is  
6 what it's called, a PC move, where you throw ice on  
7 a CO; it doesn't look like a PC. It looks like you  
8 assaulted a CO. But in all reality, you checked it  
9 in.

10 Q. How did you feel about doing that?

11 A. I didn't want to do that.

12 Q. Why not?

13 A. Well, because the way I was brought up at  
14 the time, I just couldn't do it. I told him: "I'm  
15 not going to go out like that. You've got to do  
16 what you got to do," I told him. So I stayed.

17 Q. And how do people generally feel about  
18 people who PC in prison?

19 A. Once you do that, you can never go back to  
20 the line.

21 Q. All right. So you said you didn't want to  
22 PC. So what happened, since you basically stuck  
23 around?

24 A. Well, I went to Charley Sedillo, an  
25 old-timer, and asked him for help, saying that "The



1 cliques want to get me, and they just alerted me now  
2 that they want to hit me, that I'm a mark, so I need  
3 help."

4 So they gave me another strap, another  
5 shank, and suited me up and had me ready, just in  
6 case something went down again, you know.

7 Q. Was that person a member of any gang or  
8 was he just --

9 A. No, he was a neutral. He didn't belong to  
10 no gang.

11 Q. But he still agreed to help you?

12 A. He agreed to help me because I guess he  
13 liked me. I was a youngster, you know.

14 Q. Did you know anybody at that time named  
15 Ramon Clark?

16 A. No. At the time I never knew who he was,  
17 until he called me out one day. I guess -- well,  
18 after I told Matthew that, he went and talked to  
19 Ramon Clark. Later, I found this out. At the time  
20 I didn't know what was going on. But Ramon called  
21 me out -- Razer is his name -- he called me out.  
22 And I thought they were going to hit me that day.  
23 But he called me out and said that, because I  
24 didn't -- you know, he didn't agree with what that  
25 peace treaty -- and he liked my style, the way I

1 didn't PC and go out that way, and wanted me as a  
2 soldier, wanted me to hit Leroy Mascarenas, and  
3 asked me if I wanted to be SNM.

4 Q. And was he SNM?

5 A. Yes.

6 Q. Who was Leroy Mascarenas?

7 A. He was a leader of the LCs.

8 Q. Did you agree to do that?

9 A. Yes.

10 Q. Was this supposed to happen at any  
11 particular point in time?

12 A. Yes, it was going to happen after they hit  
13 with some drugs. They were going to get a clavo  
14 that weekend, or something, and I was to wait until  
15 after the clavo to hit, to make my move.

16 Q. What's a clavo?

17 A. Drugs.

18 Q. Why was it important to wait for the drugs  
19 to arrive before you hit Leroy Mascarenas?

20 A. I guess because that was important to them  
21 at the time; getting their drugs was more important.  
22 So everyone was happy when they're locked down.  
23 Because we go on lockdown after, you know, things  
24 like that happen.

25 Q. So in other words, if you're locked down,

1 is it more difficult to get drugs?

2 A. Yes.

3 Q. Okay. So what happens as a result of this  
4 agreement you made to hit Mascarenas?

5 A. Well, I waited for him to give me the  
6 signal. But during that time I'm living in cell  
7 block 3 with about maybe eight, nine LCs that lived  
8 in the cell block with me, and maybe two SNM  
9 members -- the one that voted me in; Bernie Atencio;  
10 and Boxer, Tascio Amador, were the two that voted me  
11 in.

12 Q. What's Mr. Amador's first name?

13 A. Tascio Amador.

14 Q. So as part of this process, then, did you  
15 need to be voted in by somebody? And were those the  
16 two people?

17 A. Those were two -- there was actually four:  
18 Ramon Clark, Bernie, and Tascio, and Matthew  
19 Cavalier.

20 Q. At this point, did you get along pretty  
21 well with Matthew Cavalier?

22 A. Yeah, he seemed all right. He's one of  
23 the first ones that would look out for me when I  
24 first drove up, because I didn't really know too  
25 much about the prison.

1 Q. And at this time, were the pods mixed?  
2 You mentioned there were LC members and SNM in the  
3 same pod.

4 A. Yes, it was mixed. It was real relaxed  
5 then, the security and stuff. It wasn't like it is  
6 now, where everyone is separated and stuff. Back  
7 then, it was just open, wide open.

8 Q. Is this about the 1995 timeframe?

9 A. Yes.

10 Q. What ends up happening in the pod, and are  
11 you able to hit Mascarenas?

12 A. Well, I'm waiting -- it was going to  
13 happen that night, I know, because it was a Sunday  
14 or something like that, Saturday or Sunday, I can't  
15 remember, but I know it was going to be after the  
16 visit, and once he passed by and gave the okay, I  
17 was going to go hit him after count or something  
18 like that.

19 Q. Who gave the okay?

20 A. Ramon. I was just waiting on him. He  
21 told me not to listen to nobody, just him. If  
22 anyone says anything, not to listen to them. When  
23 he said it, that's when I do it.

24 Q. Okay. What happens after he gives you the  
25 signal?

1           A.     Well, he didn't give me the signal yet. I  
2 was waiting. What happened is, I got word from him.  
3 He didn't actually come and do -- he got -- I got  
4 word -- I think it was Mosco or one of them that  
5 came by -- I can't remember exactly who came and  
6 say, "Hey, after count, take care of that."

7                     And so I waited till after count. But  
8 unfortunately, I got hit before count.

9           Q.     All right. Tell us, what do you mean by  
10 getting hit?

11           A.     Well, during that time, I was already  
12 prepared. I had a shank in my pocket. And when I  
13 was going out to get some ice for Charlie Sedillo, I  
14 came back in and noticed that the two LCs that were  
15 playing dominoes were no longer playing dominoes;  
16 and that's when I got suspicious, knew something --  
17 you could feel it. You could feel when something is  
18 about to happen. And as I was walking down to -- I  
19 lived all the way at the end of the cell block.

20                     As I got to my cell, Sick Vic jumped out  
21 and started stabbing me. While I was trying to pull  
22 out my shank to start stabbing him, Rick Bonnie hit  
23 me with a pipe. I think it knocked me out, or  
24 something, because I woke up on the floor.

25           Q.     And do you know Sick Vic's real name?

1 A. Victor Herrera.

2 Q. What eventually happened to him?

3 A. He got killed. He got murdered.

4 Q. How long after this 1995 incident?

5 A. '96, I think.

6 Q. And was that an SNM hit on him, or did  
7 someone else do that?

8 A. Yes, it was SNM.

9 Q. Taking you back to this incident now with  
10 Sick Vic and Rick Bonnie, what do you do after  
11 getting knocked down to the floor?

12 A. Well, Tascio Amador, Boxer, helped me --  
13 he threw a chest -- if it wouldn't have been for  
14 him, they probably would have killed me. Boxer  
15 threw a metal chest on him, hit one of them on the  
16 head. They backed off and were surprised, because  
17 he's SNM. They didn't know I was SNM at the time  
18 when they hit me. So they were surprised when he  
19 said, "You just hit my carnal." And they started  
20 running. They got scared and they ran. I got up,  
21 got my shank to run after them with Tascio. But I  
22 was a little bit dazed and confused a little bit.

23 And then when we were about to hit Leroy  
24 Mascarenas, he was at the top of the stairway.  
25 That's when the COs sprayed us, and I just went down

1 after that, because my arm was swollen from the  
2 pipe. They cuffed us, took us out, took me to the  
3 hospital. And shortly after -- about two or three  
4 weeks after that, Arturo hit Leroy Mascarenas.

5 Q. Arturo who?

6 A. Garcia.

7 Q. When you say he "hit" him, what kind of  
8 damage or injury did he cause to him?

9 A. He stabbed him, tried to kill him.

10 Q. And what type of wounds did you have once  
11 you get to the hospital?

12 A. Ice pick. I think they nicked my kidney.  
13 I had a stab wound in the head and the chest, and I  
14 think they stabbed me nine times. And the pipe is  
15 what did more damage. I got stitches on my  
16 forehead, and my arm was pretty messed up from the  
17 pipe.

18 Q. So you've now been assaulted by two people  
19 in prison. Do you talk to the law enforcement  
20 authorities about what happened to you?

21 A. No.

22 Q. Why not?

23 A. Because I didn't want to snitch. I didn't  
24 want to rat.

25 Q. So were they ever prosecuted for that

1 assault on you?

2 A. No.

3 Q. And since you didn't report it to  
4 authorities, how were you otherwise going to take  
5 care of this issue?

6 A. Try to kill him.

7 Q. Back in those days, were there cameras in  
8 the pods?

9 A. No.

10 Q. Back then, did you admit that you were an  
11 SNM Gang member to others, including corrections  
12 officers?

13 A. No.

14 Q. Why would you not admit that?

15 A. They told me to keep it quiet, not to brag  
16 about it, not to put it out there. We're not a  
17 street gang, I was told.

18 Q. And then what kind of rules were given to  
19 you at that point in time regarding the gang?

20 A. There wasn't really no set rules. It's  
21 just -- you would just -- like when I was around  
22 old-timers and stuff, they would just school me on  
23 pretty much how to conduct yourself, how to be --  
24 you know, with -- how to stay quiet and not say  
25 nothing, things like that. Mostly about that.



1 Just, if you're going to do something, do it. Don't  
2 talk about it to no one.

3 I didn't get into politics or nothing at  
4 that time. I was a really young kid, and I didn't  
5 really know too much.

6 Q. So you told the jury that you got voted  
7 in. But at some point did you have to do what's  
8 called earning your bones?

9 A. Yes.

10 Q. How did you do that, and when?

11 A. I was supposed to do it when I was going  
12 to hit Mascareñas. But I got hit instead. So  
13 earning my bones, I needed to kill somebody, or at  
14 least attempt it, try it. And I didn't earn that  
15 until 1998, when I came back to prison. I stabbed  
16 Brett Watson.

17 Q. Okay. What charges brought you back to  
18 prison?

19 A. Murder.

20 Q. And how long had you been out before that  
21 murder happened?

22 A. Four months.

23 Q. Okay. We're going to come back to that  
24 murder in a little bit. Let me ask you about Brett  
25 Watson. Who was he?

1 A. He was a Supreme White Power.

2 Q. And why was he selected?

3 A. He had it on his neck, SWP on his neck.

4 And when I came -- when I went -- drove up to  
5 Cruces, to where we were -- in the unit where we  
6 were at, I was in the pod with him. And just months  
7 before that, they had hit Chicken Little. The same  
8 group had hit Chicken Little.

9 Q. Who was Chicken Little?

10 A. One of the carnals, one of SNM.

11 Q. Was he in your facility or another  
12 facility?

13 A. He was in another facility. And they had  
14 hit him, the same people. So when I drove up, I  
15 asked Chaps about it, and -- Chaparro was the oldest  
16 one there at the time. So I asked him about it. I  
17 asked him, I asked him if -- "What's going to happen  
18 with this guy? He's living with me, you know.  
19 Aren't we supposed to do something?"

20 And once I brought that up, he said,  
21 "Yeah, it needs to get done, if that's who it is."

22 So from there, we plotted. Just me and  
23 him, though. And because I already knew him from  
24 the Main, and how to keep quiet and stuff, we took  
25 care of it really slick, and no one really knew

1 about it.

2 Q. And you mentioned a little bit ago that  
3 you drove up to the facility. What does that mean?

4 A. Well, when we arrive, when we go to  
5 another facility. That's just the way we call it,  
6 talk.

7 Q. What -- how did you deal with Brett  
8 Watson?

9 A. Well, I befriended him, became his friend,  
10 started talking to him, and you know, making him at  
11 ease, make him comfortable, so he don't think  
12 anything is up.

13 Q. And then what eventually happened to him?

14 A. Well, at the last minute, kind of like a  
15 day or so before, there was two other white boys  
16 that were living with him, and I used them. I went  
17 and told them that they need to take care of their  
18 own, or we're going to take care of you. Because  
19 the pod was full of SNM, so they were outnumbered.  
20 They were not going to win, if they didn't listen,  
21 so -- but at the same time nobody knew -- in the pod  
22 with me, none of the SNM knew. I was the only one  
23 that knew at the time.

24 And so I pulled them in, told them that  
25 "We need to take care of this. I'm going to make

1 sure it happens. I'm going to go in there with you,  
2 and we're going to strangle him. Because stabbing  
3 him is too sloppy, and strangling him will get him,  
4 you know, killed. It's clean, and he will -- we  
5 probably could get away with it."

6 So when -- the day we were going to go do  
7 it, I told him to make a ligature. I told Spider --  
8 he was a white boy, so I just know him as Spider --  
9 I told him, "Make a ligature, and be ready in the  
10 morning, because we're going to hit him first thing  
11 in the morning while everyone goes to chow."

12 And then, at the last minute, I told a few  
13 carnals what was going to happen so they could stay  
14 back, just in case something went wrong; like two of  
15 them, two carnals to stay back. The rest go to  
16 chow. When they go to chow, we're going to hit him.  
17 And what happened -- everything happened according  
18 to plan. As we went in there, though, he was  
19 asleep, and everything, but the guy had a stinger  
20 cord, which was --

21 Q. What is that?

22 A. It's like a plug, just like a regular  
23 plug, electrical plug. And I told him, "That's not  
24 going to work, man. That's going to break." I told  
25 him, "It's too late now, we've got to go now,

1 because it's got to be done today."

2 And before that, though, Chaparro had made  
3 me a shank like he did in the Main. He was good at  
4 that. So he's actually the one that taught me how  
5 to make them. Once he made that, gave me that, I  
6 was ready. And I didn't like to hold weapons too  
7 long before I use them, because I didn't want to get  
8 caught with it.

9 Q. What did you do to Brett Watson?

10 A. I went into the room and held him down at  
11 first, so that Spider could choke him. He wrapped  
12 it around. He started choking him. But just like I  
13 knew it would do, the thing snapped and broke, and  
14 once it did, the guy let out a scream so loud that  
15 we had to do it fast, because I think that's when  
16 the CO heard, and was wondering what was going on.  
17 And I started stabbing him in the back area. Once  
18 that happened, you know, once it broke, I started  
19 stabbing him. And then Spider started stabbing him  
20 also with the icepick in his neck. And he just laid  
21 there. I thought he was dead. I walked out, went  
22 and cleaned up, and threw the shank down the toilet  
23 in Spider's room, so if anyone gets caught, it's the  
24 white boys that got caught, not us. And cleaned up,  
25 and that was it.

1           After that, they shook down, they  
2   investigated. And I guess he went to the hospital,  
3   and, you know, surgery, whatever, and survived. And  
4   because he didn't say nothing, they didn't know  
5   really who -- they were just going off confidential  
6   information after that.

7           Q.    Let me ask you this: Did you ever get  
8   prosecuted for that crime?

9           A.    No.

10          Q.    Did Brett Watson ever serve as a witness  
11   against you?

12          A.    No.

13          Q.    And as a result -- did he survive?

14          A.    Yes.

15          Q.    Even though he survived, did you still  
16   earn your bones for that?

17          A.    Yes.

18          Q.    Is that when you got your tattoo?

19          A.    Yes, I actually got the tattoo two nights  
20   before I stabbed him.

21          Q.    And you mentioned Spider. Is that a  
22   person named Calbert, or is it a different Spider?

23          A.    That's a different Spider.

24          Q.    So that was 1998?

25          A.    Yes.

1 Q. At some point in time, had you met someone  
2 named Angel Munoz?

3 A. Yes. That was back in '96.

4 Q. Two years before this?

5 A. Yes.

6 Q. And what you were doing in those two years  
7 between meeting Angel Munoz and assaulting Brett  
8 Watson?

9 A. Being schooled, pretty much. I learned a  
10 lot through Angel and Gerald Archuleta. They're  
11 actually the ones that schooled me.

12 Q. And so going back to Brett Watson, was  
13 that hit on him in retaliation for the SWP's  
14 assaulting SNM?

15 A. Yes.

16 Q. Did you do that because it was expected of  
17 you as a member of the SNM?

18 A. Yes.

19 Q. All right. Having met Angel Munoz, what  
20 did you do for him or with him? What was your  
21 relationship with him?

22 A. I looked up to him as he was a leader. If  
23 he said to do something, I would do it if he asked  
24 me to. Even if he didn't ask me, if he just told me  
25 to do something, I would do it.

1 Q. Why were you so loyal to him?

2 A. Because he was the jefe. And he was  
3 the -- he was the -- from what I heard, he was a  
4 killer. He was a person to look up to.

5 Q. Back in those days, did you have larger  
6 yards where you would have recreation with everyone,  
7 or were they the cages that are smaller, like now?

8 A. No. Large yards. It was open -- it was  
9 wide open. That's what we call wide open.

10 Q. And what would you do with weapons in the  
11 yard?

12 A. Stash them, have them ready in certain  
13 places we knew where they were, in case something  
14 happened.

15 Q. And what were you willing to do for Angel  
16 Munoz back in those days?

17 A. What was I willing to do?

18 Q. Yes.

19 A. Kill for him.

20 Q. What eventually happens to the LCs? Do  
21 they stick around as a rival gang, or do they get  
22 smaller?

23 A. No, they started getting -- they were  
24 pretty much dismantled. The SNM had took over the  
25 yards at the time because if there was an LC there,



1 one would get hit and maybe two or three would PC,  
2 and they just got off the line. They wouldn't go  
3 onto the line. And if they would go onto the line,  
4 they would get hit right away. So yeah, they were  
5 pretty much dismantled.

6 Q. I want to go back to a murder charge you  
7 mentioned earlier. So it sounds like you got  
8 released from your aggravated assault sentence, you  
9 were on the streets, and what were you doing once  
10 you were released back to the streets?

11 A. I was -- I had parole -- supervision,  
12 supervised parole, so I had to do things carefully.  
13 But Angel would send his wife to -- if I had dope, I  
14 would give it to him -- give it to her for him. If  
15 not, I would go with her to go pick up some. So I  
16 was -- still had to be loyal to him even on the  
17 streets.

18 Q. And what was the purpose of picking up  
19 either money or dope for him?

20 A. So we can help him out in prison, while  
21 he's in prison, so he could have it.

22 Q. So were you responsible for sending drugs  
23 or money into the prison to support --

24 A. Yes.

25 Q. Okay. So during this time, you eventually

1 strike up a relationship with a law enforcement  
2 officer?

3 A. Yes.

4 Q. How does that come about?

5 A. We just started having sex, me and -- she  
6 was a sergeant at the time. And it went on from  
7 there. We just -- she started introducing me to big  
8 people and started selling drugs, guns, whatever,  
9 whatever.

10 Q. How did you first meet her?

11 A. Through another girl that I was dating,  
12 through her cousin. It was -- I guess it was her  
13 auntie or something like that.

14 Q. And how did you very first meet her?

15 A. It was at Cinco de Mayo, around that time.  
16 And we just went out and partied. And I was staying  
17 at the house at the time, too, at her niece's house.  
18 And she came, and we just started partying, and that  
19 was it. We hit it off from there.

20 Q. Did you know she was a police officer at  
21 the time?

22 A. Yeah, when I first, first met her, yeah,  
23 she was -- I didn't know she was a cop until the  
24 very first time. She drove up in a cop car, and it  
25 kind of freaked me out, and I started stashing all

1 my stuff. I thought they were coming for me.

2 Q. What were you stashing?

3 A. Dope, gun -- I had a gun and some dope.

4 Q. Okay. So you think she might be there to  
5 arrest you or search --

6 A. Yeah, search the house, whatever, because  
7 I was on parole at the time.

8 Q. And what happened?

9 A. She just came -- they introduced me to  
10 her, and we started talking. And by that nighttime  
11 we were partying and having sex.

12 Q. And about what year was this?

13 A. '98.

14 Q. How long does this go on with the  
15 relationship with her and the drug-dealing and all  
16 of that stuff?

17 A. About a couple of months, I'd say.

18 Q. What eventually happens to the two of you?

19 A. Well, we just started getting in deep with  
20 some, you know, money, drugs, doing some pretty bad  
21 things. For her being a cop, she was real paranoid,  
22 you know, because of all that stuff. Me, I didn't  
23 really care. I just got out of prison and I was  
24 just doing my thing. But it ended up -- we ended up  
25 getting -- I guess she got herself into some things

1 more. I found out later. At the time I didn't know  
2 what she was into, how deep she was into it until  
3 after I got my discovery and the murder happened.

4 Q. All right. Tell us about that murder,  
5 then. How do you find yourself in that position?

6 A. She took me out that night to -- well, we  
7 would go out drinking, you know, almost every night  
8 after she got off of work. But that night she --  
9 when she took me -- because I was on the run by that  
10 time. I was on the run from the parole. I had  
11 already had broke the bracelet, and just went on the  
12 run. And so she knew it, but she would always flash  
13 her badge. If she got pulled over, she would flash  
14 her badge, and they wouldn't even mess with her. We  
15 had gotten pulled over a few times at checkpoints,  
16 and they never asked about me ever.

17 But that night she told me to leave my ID  
18 behind. And that's when I caught something -- that  
19 something ain't right, because --

20 Q. Why was that?

21 A. Well, because usually, she won't even --  
22 she's not worried, because she has her badge, you  
23 know; she could just flash it and we're good. But  
24 that night, she told me to leave it behind. And I  
25 felt something -- you know, because I already had

1 been stabbed before, so I knew -- I get that tense  
2 feeling that something is not right, something is  
3 not right about that night. And --

4 MR. LOWRY: Your Honor, can we just object  
5 to the narrative form?

6 THE COURT: I'm sorry?

7 MR. LOWRY: Can we object to the  
8 narration, and get some questions and answers?

9 THE COURT: All right. Why don't you  
10 break it up a little?

11 MR. CASTELLANO: Sure, Your Honor.

12 BY MR. CASTELLANO:

13 Q. So you tell us that you get an uneasy  
14 feeling. Do you do what she asks? Do you leave  
15 your ID behind?

16 A. Yes.

17 Q. And what happens after that? Where do you  
18 guys go?

19 A. To the Petroglyphs. She drives us up  
20 there.

21 Q. Any particular reason why you're driving  
22 out to the Petroglyphs?

23 A. She said it was to go drink and party and  
24 stuff. But I didn't think that's what we were going  
25 there for.

1 Q. What happens when you get out there?

2 A. There is another car about 100 yards away,  
3 parked there. I assumed it was the rangers. I told  
4 her that it might be the rangers; we need to get out  
5 of here, because I'm on the run.

6 Q. And at this point, what time of day or  
7 night is it?

8 A. It's around midnight.

9 Q. So it's dark outside?

10 A. Yeah. It was close to 12:00, 1:00 in the  
11 morning.

12 Q. All right. So what happens?

13 A. I get her gun. When I'm hugging her, I  
14 take her gun away.

15 Q. Why?

16 A. Because I was paranoid, and I got scared  
17 that she was up to something. And I just said, "I'm  
18 going to go stash it." I told her, "I'm going to  
19 put it in the truck." But I didn't put it in the  
20 truck. I kept it on me.

21 Q. And then what happened?

22 A. She kept asking for it back. And I said,  
23 "No." And at one point she tried to come and get it  
24 from me, and that's when I shot three times, and she  
25 dropped.

1 Q. Why did you end up shooting at her?

2 A. Well, because she was going to come and  
3 try to get the gun away from me, and I wasn't going  
4 to let her.

5 Q. What were you worried about that night?

6 A. Getting killed or -- I mean, we were in so  
7 deep in some stuff, and drugs and stuff, that I  
8 didn't know what was going on. I mean, I was pretty  
9 right. After -- when I got arrested and got my  
10 discovery, I found out that I was pretty much right,  
11 that there was something going on. But, yeah, I was  
12 paranoid that there was a hit on me, or something  
13 like that. Because she dealing with the Mexicans,  
14 and we were in deep with that. So I was thinking  
15 they were going to kill me.

16 Q. And whatever happened with the other  
17 vehicle? How did that kind of play into --

18 A. One of the witnesses that found the body  
19 said that they seen a car by the body. And that  
20 when she tried to -- she was so scared that she  
21 didn't want to go to the rangers, that she --  
22 because the car was following her as she was  
23 walking. And so she got in her car, and that car  
24 followed her. And she finally got away from that  
25 car, making moves, I guess, or something. That's

1 the way she described it in trial. And --

2 MR. LOWRY: Objection, foundation.

3 Q. Well, did that happen at your trial?

4 A. Yes.

5 Q. Are you telling us about witness testimony  
6 at that trial?

7 A. Yes.

8 MR. LOWRY: Objection, hearsay.

9 THE COURT: Well, I guess I'll have to  
10 sustain.

11 BY MR. CASTELLANO

12 Q. So you took that case to trial?

13 A. Yes.

14 Q. Correct. What happened as a result of  
15 going to trial on that case?

16 A. I got found guilty and got a life  
17 sentence.

18 MR. CASTELLANO: May I have a moment, Your  
19 Honor?

20 THE COURT: You may.

21 MR. CASTELLANO: Your Honor, at this time  
22 I move the admission of 434.

23 THE COURT: Any objection from the  
24 defendants?

25 MR. VILLA: No, Your Honor.



1 THE COURT: All right. Government's  
2 Exhibit 434 will be admitted into evidence.

3 (Government Exhibit 434 admitted.)

4 BY MR. CASTELLANO

5 Q. Okay. Mr. Martinez, I'm going to draw  
6 your attention to Bates stamp number 8988 of that  
7 exhibit. Are you able to see that on your screen,  
8 sir?

9 A. Yes.

10 Q. Okay. So when were you convicted of that  
11 crime?

12 A. When?

13 Q. Yes.

14 A. In 2001.

15 Q. And when did the actual shooting take  
16 place?

17 A. In 1998.

18 Q. How long did it take, after you shot the  
19 police officer, before you were arrested and charged  
20 with that crime?

21 A. About three years.

22 Q. About three years?

23 A. Yeah.

24 Q. How was it eventually solved?

25 MR. LOWRY: Objection, foundation.

1 THE COURT: Well, if he knows.

2 Why don't you lay some foundation as to  
3 how he knows?

4 BY MR. CASTELLANO

5 Q. Sure. Do you know how you were caught  
6 eventually for that crime?

7 A. Yes. They said that I was the last person  
8 to be seen with her.

9 Q. Okay.

10 A. That's what they told me.

11 Q. And just for clarification, when you shot  
12 this police officer, was that an SNM hit?

13 A. No.

14 Q. Now, the conduct leading up to it, the  
15 drug-dealing and the firearms -- was that SNM  
16 activity?

17 A. Yes.

18 Q. Okay. I want to turn your attention to  
19 another page in that exhibit. It's Bates stamped  
20 8985. When you killed the police officer -- what  
21 was her name?

22 A. Cheryl.

23 Q. And you were convicted of first-degree  
24 murder?

25 A. Yes.

1 Q. I'm showing you now a judgment, sentence,  
2 and commitment filed June 24, 2002. What is that  
3 conviction for?

4 A. It's for killing Matthew Cavalier.

5 Q. And was that a conviction for  
6 second-degree murder?

7 A. Yes.

8 Q. Now, earlier you told us about somebody  
9 named Matthew Cavalier. Is this the same Matthew  
10 Cavalier?

11 A. Yes.

12 Q. Was he somebody you previously got along  
13 with?

14 A. Yes.

15 Q. How is it you find yourself killing  
16 somebody who actually previously protected you and  
17 befriended you? How did that happen?

18 A. Because he had ratted on a murder that  
19 happened in '96, with Victor Herrera.

20 Q. And is Victor Herrera the same Sick Vic  
21 you mentioned earlier?

22 A. Yes, the one that stabbed me, yes.

23 Q. So where are you at the time that this  
24 murder happens?

25 A. Which murder?

1 Q. Matthew Cavalier.

2 A. BCDC.

3 Q. And why were you in BCDC?

4 A. Awaiting trial for the first-degree -- the  
5 other murder, the cop murder.

6 Q. So you're in BCDC, the Bernalillo County  
7 Detention Center?

8 A. Yes.

9 Q. So you find yourself in jail pending  
10 charges for the previous murder. And how is it that  
11 you find yourself next to Matthew Cavalier?

12 A. He just drove up one day, and came in, and  
13 they just put him next to -- I just was in  
14 disbelief, because they already knew he was a  
15 marked -- he knew he was marked, because he ratted.  
16 So I was surprised that he even just came into that  
17 pod knowing that he was going to get killed.

18 Q. In other words, knowing he was marked --  
19 he didn't PC?

20 A. He didn't PC.

21 Q. And what discussion do you have with  
22 others about the fact that he's now living with you?

23 A. Well, I go rap to Styx. Immediately we  
24 had a meeting right away, because it was just four  
25 of us in there. It was me, Styx, Rabbit, and Paco.

1 Q. Let me stop you there. Is Styx also known  
2 as Gerald Archuleta?

3 A. Yes.

4 Q. And was he in the facility with you at  
5 that time?

6 A. Yes.

7 Q. And who was Rabbit?

8 A. Samuel Silva.

9 Q. Do you know Paco's name?

10 A. Francisco Villalobos.

11 Q. And are you living in the same pod or  
12 living area at that time?

13 A. Yes, we're all living together. There was  
14 other -- two other SNM members at the time in there,  
15 too: Fuzz -- I don't remember his name -- Kelly  
16 Mercer were also living in there, but they weren't  
17 part of that meeting.

18 Q. Tell us what happens when you meet with  
19 Styx and the others?

20 A. Well, we just all agree, we pretty much  
21 said: "He has to go, we have to kill him."

22 Q. Why did he have to go?

23 A. Because there was paperwork on him.

24 Q. And what problem did that create in terms  
25 of being an SNM Gang member?

1 A. Excuse me?

2 Q. What problems did that create for being an  
3 SNM Gang member?

4 A. Well, once you rat, you become -- that's  
5 it. You're dead, pretty much.

6 Q. Is that part of the rules of the gang?

7 A. Yes.

8 Q. And are you required to enforce those  
9 rules?

10 A. Yes.

11 Q. So what happens?

12 A. Once he drove up there, we were obligated.  
13 There was -- or else we would all answer to it  
14 later, if we didn't take care of him. If they found  
15 out later that he was living with us, and we had a  
16 chance to hit him, and we didn't, later on we would  
17 all have to answer to that in one way or another.

18 Q. What happens to Matthew Cavalier?

19 A. For count, I made a ligature -- and we all  
20 agreed how it was going to happen. We talked -- me,  
21 Paco, and Silva had talked about how we were going  
22 to kill him. And so for count, it was going to be  
23 after count, after chow, when -- you know, when  
24 everything is calm, you know, when everything is  
25 done; the COs are out of the pod, and everything

1 like that. And the signal was that Rabs was going  
2 to hold him. Paco would hold his feet. And I would  
3 strangle him. And the reason why Rabs was --  
4 because he was bigger, stronger, and there was no  
5 way Mosco would get out of that.

6 So after chow, that's exactly what  
7 happened. And the signal was: When I throw out --  
8 we're going to smoke a cigarette together. You guys  
9 go in there first, I'll go in last, because that way  
10 he don't get paranoid. I went in last, I closed the  
11 door. As soon as I took a toke, I threw the  
12 cigarette in the toilet. That was my sign for --  
13 when I do that, that's when Silva is to hold him.  
14 And I take off the belt, and that was the ligature,  
15 and I jumped on top of him and started strangling  
16 him.

17 Q. And does he know it's you who is  
18 strangling him?

19 A. Yes. He told me, "Don't do it, Roy."

20 Q. And is he looking at you when this  
21 happens? Or how are you strangling him?

22 A. What's that?

23 Q. Is he looking at you? Are you behind him?  
24 How are you positioned?

25 A. When I took off the belt, and I turned

1 around, and he was in a bear hug, yeah, he looked at  
2 me. That's when he told me, "Don't do it."

3 Q. What did you do?

4 A. I just blocked that out of my mind. You  
5 know, I just had no choice.

6 Q. Why did you have to block it out?

7 A. Because he was my friend, you know. He  
8 was somebody that, you know, looked out for me in  
9 the past; had came and warned me that they were  
10 going to hit me, and tried to get me to PC so I  
11 don't get killed.

12 Q. Okay. So what happens to him?

13 A. I get on top of him and start strangling  
14 him, and put my knee on the back of his head, till  
15 it's broke.

16 Q. And did he die?

17 A. Yes.

18 Q. We looked at the judgment here a second  
19 ago. So you were convicted of that offense?

20 A. Yes.

21 Q. And how was it that you were charged and  
22 convicted? Was this discovered right away or was it  
23 discovered later on?

24 A. Yeah, it was -- well, the body wasn't  
25 discovered until 24 hours later. He laid in there.



1 The COs didn't know. They thought he was asleep.

2 But then, under investigation, they pulled  
3 Kelly Mercer out, and he told right away what  
4 happened.

5 And they had pictures of my hands, which  
6 were swollen with ligature marks on them.

7 Q. How did you find out that Kelly Mercer had  
8 told?

9 A. When they indicted all of us, they put us  
10 all in the same pod together. And they had bugged  
11 our cells. They were listening to us. Kelly Mercer  
12 was one of the first ones to go to the interview and  
13 never came back.

14 Q. Whatever happened to Kelly Mercer?

15 A. I have no idea. There was actually four  
16 people that were in the unit or something that had  
17 cooperated.

18 Q. And who eventually was convicted of this  
19 murder?

20 A. I was.

21 Q. Anyone else?

22 A. Gerald Archuleta and Paco. Samuel Silva  
23 was the only one that didn't.

24 Q. And I take it Samuel Silva wasn't  
25 convicted because you guys didn't rat on him and say

1 he was involved?

2 A. Well, what happened was, we were going to  
3 go to trial -- we were scheduled to go to trial, and  
4 like a day before, or something, I called my lawyer,  
5 and I said, "I can't take him down with me. They  
6 want me. And I'll take a plea right now, if they  
7 drop his charges."

8 And that's how it went down. The DA was  
9 quick to do a conviction; didn't care about Mosco or  
10 any of us, really. He just wanted to get it over  
11 with.

12 I signed a plea. He said, "Hey, just  
13 confess to the judge, and we'll drop the charges on  
14 Silva, and that will be that." And that's how it  
15 went down.

16 Q. So his charges were dismissed?

17 A. His charges were dismissed, and I pled  
18 guilty on the same day. And family members were  
19 pretty upset for that reason, you know, because we  
20 did that.

21 Q. Because he wasn't held responsible for the  
22 murder?

23 A. Exactly. And that he was going to be let  
24 out eventually to the streets again. And they were  
25 scared.

1 Q. I want to take you back to 1998, back in  
2 time now. Were you involved with an arson at the  
3 prison?

4 A. Yes.

5 Q. How did that happen?

6 A. It actually happened in '97, I think. I  
7 lit a fire in the vent, in the Main penitentiary.

8 Q. Why did you do that?

9 A. Because they didn't bring me my property.  
10 They were messing around with me, the COs. I was a  
11 young kid. I was really impatient. Back then it  
12 was just a jungle. The cops were really -- you  
13 know, there is no respect.

14 Q. When you say "cops," are you referring to  
15 the correction officers?

16 A. Yes, the COs.

17 Q. Did someone get hurt, or almost get hurt  
18 as a result of this arson?

19 A. Yes. I didn't know, but somebody had --  
20 one of the PPS officers was working on the toilet at  
21 the far end of the corridor, or whatever you call  
22 that, pie chase. And when the fire started, I guess  
23 it was so bad, so much, that it blew up a hole in  
24 the vents and caught fire to the insulation, and he  
25 got smoked out, and he passed out.

1 Q. Did he survive?

2 A. Yes.

3 Q. And what was the corrections officers'  
4 response to your arson?

5 A. They beat me up. On the way to the  
6 shower, they came -- they got me out of the shower.  
7 The Major actually stopped it, but they were beating  
8 me. They cut my eye open.

9 Q. And did you report that to the  
10 authorities?

11 A. No.

12 Q. Were any of the corrections officers  
13 prosecuted as a result?

14 A. No.

15 Q. Why not get the corrections officers in  
16 trouble by --

17 A. I just was just told not to say nothing  
18 and we'll handle it ourselves.

19 Q. I'm going to ask you about somebody named  
20 Javier Molina. Are you familiar with that name?

21 A. Yes.

22 Q. And sometime around 2013, 2014, did you  
23 receive any paperwork related to Javier Molina?

24 A. Yes.

25 Q. What did you receive?

1           A.     It was like a bench warrant or something.  
2     It was like a warrant, like two pages, three pages,  
3     maybe.

4           Q.     How did you receive those documents?

5           A.     Legal mail. It was actually stacked with  
6     some other paperwork, but it was miscellaneous. I  
7     don't even know what.

8           Q.     In which facility were you living during  
9     that time?

10          A.     The North, PNM North.

11          Q.     That's the North facility in Santa Fe?

12          A.     Yes.

13          Q.     And what did you think when you received  
14     the paperwork?

15          A.     I just -- well, at first I didn't really  
16     think anything of it until I recognized the name and  
17     there was little highlights in it were underlined;  
18     things were underlined. And it was something to the  
19     effect that he got out of the car, and he was with  
20     them earlier, you know, and this and that. I can't  
21     really remember. But it was something to that  
22     effect. It was real brief. It wasn't a big old  
23     long thing.

24          Q.     All right. And what did you think about  
25     reading that information?

1           A.    I actually didn't really think nothing at  
2 the time. You know, I was really -- it wasn't much  
3 of anything.

4           Q.    And what did you do with that paperwork?

5           A.    I stashed it in my other paperwork, my own  
6 stuff.

7           Q.    Why did you do that?

8           A.    Just in case the COs come and shake down.

9                   One thing I learned from the history, is  
10 when I -- after I killed Mosco, we had paperwork on  
11 other rats, people that were telling, and I didn't  
12 want to get caught with that paperwork, because  
13 people that testified or were going to testify in  
14 Moscow's case -- we had that paperwork. And I  
15 didn't want to have it in my room, because they were  
16 going to try to kill those dudes. So I didn't want  
17 them to link me to any of those murders, if they  
18 happened.

19          Q.    So in other words, if you have  
20 cooperators' information in your cell, and that  
21 cooperator dies --

22          A.    Yes.

23          Q.    -- you can get potentially tied to that?

24          A.    Yes.

25          Q.    And why stash it in your legal paperwork

1 as opposed to other places?

2 A. Because the COs can't look through your  
3 stuff. They can skim through it, but they can't  
4 read it. They can't look at names or anything like  
5 that. But if they find somebody else's names, other  
6 people's paperwork, you can get charged -- written  
7 up, or whatever.

8 Q. When you say "charged," is that an  
9 administrative process?

10 A. Yeah. Administration. They did write you  
11 up for that.

12 Q. Did you mention the paperwork to anybody?

13 A. No, not right away. Like I said, I didn't  
14 think it was really nothing.

15 Q. And so as a result, did you order  
16 anything? Did you do anything else with that  
17 paperwork?

18 A. No.

19 Q. And had you met Javier Molina before?

20 A. Yes.

21 Q. Where had you met him?

22 A. When I was in Southern, when I was in  
23 Cruces with him, in the unit.

24 Q. When was that?

25 A. In 2012, 2013, those two years.

1 Q. Did you have any problems with him?

2 A. No, none.

3 Q. And how did you find yourself at Southern,  
4 and then shortly after that back at the North?

5 A. Well, they locked up Pup, and then,  
6 shortly after they locked him up, they caught  
7 somebody sharpening a shank, in another pod, and as  
8 a result of that, they shook down, and they found  
9 shanks in my cell, Crazo's cell. A few of us got  
10 locked up for that.

11 Q. Why did you have shanks?

12 A. Just because they had told us we were  
13 going to be going to the line; that there is a  
14 possibility that we'd be going to the line. And we  
15 had enemies out there. So we were getting prepared.  
16 Just in case they told us we're going to the line,  
17 we were packing.

18 Q. At this point, is this -- are you only  
19 housed with SNM?

20 A. Yes.

21 Q. And going to the line -- does that mean  
22 you would be in general population with other  
23 inmates?

24 A. Yes, because we were in Level 4 at the  
25 time.



1 Q. And you knew then that you would probably  
2 run into enemies?

3 A. Yes.

4 Q. You mentioned Pup. Who is Pup?

5 A. Anthony Baca.

6 Q. I know you don't have your glasses today,  
7 but are you able to see him in the courtroom?

8 A. No. I can't really -- I don't know which  
9 one he is. I can't see. I need glasses bad.

10 Q. That's all right. How did you know Pup,  
11 or Anthony Baca?

12 A. Just doing time. I met him in 1995, when  
13 I was a young kid. But it was like real brief. It  
14 wasn't much of anything.

15 Q. And who was he to you in 1995?

16 A. Just another carnal.

17 Q. At that point, did you know whether he  
18 held any type of leadership responsibility or  
19 anything like that?

20 A. No, but I just knew he was old-time, he  
21 was older. Just respected older people, that had  
22 been around longer.

23 Q. What about your time with him at Southern?

24 A. I got to know him there more when -- there  
25 was some problems, I guess, that was happening

1 before I had got there with him, concerning him, and  
2 BB and Gumby and all these other guys. I really  
3 didn't know too much about that stuff. They were  
4 just -- something happened I guess. But when I  
5 talked to him, I got along.

6 MR. LOWRY: Objection, Your Honor. We  
7 need some questions and answers.

8 THE COURT: All right. A little more Q  
9 and A.

10 MR. CASTELLANO: Sure, Your Honor.

11 BY MR. CASTELLANO

12 Q. Tell us about your conversation with  
13 Anthony Baca.

14 A. Just had a regular conversation about how  
15 things should be run with the SNM.

16 Q. Did he have ideas about the way it should  
17 be run and the structure of the organization?

18 A. Yes.

19 Q. And who was Pup now when you were housed  
20 with him at Southern? What kind of responsibility  
21 did he have, or role?

22 A. Well, he was known as a leader that, you  
23 know, earned his way.

24 Q. And so what were some of the ideas he  
25 shared with you?

1           A.     Well, he wanted to -- he wanted more  
2 discipline, more structure, more, like, people to,  
3 you know, get in line, do things -- you know, have  
4 respect for each other, things like that.

5                   MS. JACKS:   Excuse me, Your Honor.   Are  
6 these statements limited?

7                   THE COURT:   I think they are.

8                   These statements that are being testified  
9 about that Mr. Baca made are limited just to him.  
10 And you cannot use them in your consideration  
11 against the charges against any of the other  
12 defendants.

13                   Mr. Castellano.

14 BY MR. CASTELLANO

15           Q.     How did you feel about his ideas?

16           A.     I liked them.   You know, I agreed we  
17 should have more structure and more discipline,  
18 things like that.

19           Q.     Why did that seem like a good idea about  
20 this timeframe?

21           A.     Well, because it was -- there was a lot of  
22 youngsters.   There was a lot of disrespect.   I mean,  
23 for the most part, we were -- if something went  
24 down, we would all stick together.   But yeah, there  
25 needed to be more discipline and more structure at

1 the time. So that's what we were talking about  
2 mostly.

3 Q. And are you familiar with the term  
4 "tabla"?

5 A. Yes.

6 Q. What's a tabla?

7 A. It's a table, a panel of leaders, more  
8 than one.

9 Q. And when you were at the Southern New  
10 Mexico Correctional Facility was there a tabla in  
11 place?

12 A. What happened is, we had a vote between  
13 the pods in the unit. So there were certain names  
14 that were there. My name was on there, BB's name,  
15 Carlos. Pup was the main one that was to be above  
16 all. So we voted. There was a vote on it at the  
17 time and the only pod that wasn't united in that was  
18 blue pod.

19 Q. What was the issue with blue pod?

20 A. I guess they just -- people in there  
21 didn't agree with Pup being at the top.

22 Q. If you recall at this point, do you  
23 remember who was in blue pod at that point?

24 A. JR, Stoner, Dan Dan. Those are the only  
25 ones I really knew at the time. Oh, Drama, Javier

1 Molina, and they were there, that I could remember.

2 Q. You mentioned the name Carlos. Carlos  
3 who? Which Carlos is this that you referred to?

4 A. Lazy.

5 Q. Do you know his last name?

6 A. Herrera.

7 Q. As a result of this vote, did he end up on  
8 the tabla?

9 A. Yes.

10 Q. What responsibilities did you have then as  
11 members of the tabla?

12 A. To keep people in line and start, you  
13 know, building, building up, discipline; you know,  
14 working out, doing things like that.

15 Q. And in terms of discipline, what were your  
16 responsibilities if paperwork came in on somebody?

17 A. Well, that was to be handled immediately.  
18 If there was paperwork on somebody, they were to get  
19 killed.

20 Q. And as members of the tabla, what would  
21 happen if you didn't follow through with the  
22 responsibilities?

23 A. Then we'd be dealt with.

24 Q. Now, you told the jury earlier that you  
25 had paperwork, some sort of paperwork on Javier

1 Molina once you eventually get back to the North  
2 from Southern?

3 A. Yeah, that was after.

4 Q. You told us about being in Southern,  
5 you're on the tabla; then you get sent back to the  
6 North.

7 A. Um-hum.

8 Q. And you receive the paperwork?

9 A. Um-hum.

10 Q. What eventually happens to the paperwork  
11 that you had?

12 A. Well, when Javier got killed, I told Slim,  
13 a Sureno at the time -- I don't know his name; he  
14 was my neighbor. I gave it to him and told him to  
15 just hold it, because they're probably going to  
16 shake us down. I didn't know they were going to do  
17 what they did. They just went all-out. But I told  
18 him, "Hold it until after they're done shaking down,  
19 and then I'll get it back from you."

20 But that never happened. They moved me  
21 and pretty much shut us down.

22 Q. So what happened to your copy of the  
23 paperwork?

24 A. It went with that Sureno, whatever he did  
25 with it.

1 Q. And if you know, were the Surenos also  
2 shaken down, or just the SNM?

3 A. It was just SNM. When that happened, they  
4 went and targeted all SNM members and rounded us all  
5 up, all state wide, and it was pretty massive.

6 Q. At some point did you ever see or hear  
7 about paperwork on Jerry Montoya?

8 A. Yes.

9 Q. And did you have a conversation about it?

10 A. Yeah, he said it was fake and that it  
11 wasn't real and stuff like that.

12 Q. Where was this conversation, and when?

13 A. When we were in Southern. He would go  
14 to -- my window was right there by the yard, so I  
15 would be able to talk to them whenever they go to  
16 the yard, the other units.

17 Q. Do you remember what year that was?

18 A. 2012, 2013. All I did was talk to him  
19 about it. He didn't show me nothing. I just asked  
20 him about it. He said that it was just made up; it  
21 wasn't real, and that Pup agreed that it was all  
22 good and left it alone.

23 Q. Did you have any discussions with Pup  
24 about it?

25 A. Not really, no. Not about that.

1 Q. Was there ever any indication that BB had  
2 the paperwork?

3 A. Yes, Pup had came to -- well, after we got  
4 locked down, I got locked down for a shank, and Pup  
5 was already in lockup. And I called him out for a  
6 legal rep. When they charged me, they gave me a  
7 report. So I called Pup out for a legal rep. And  
8 that's when me and him talked about --

9 MS. JACKS: Objection, Your Honor. This  
10 appears to be calling for hearsay.

11 MR. CASTELLANO: It's a statement by a  
12 party opponent, Your Honor.

13 THE COURT: Yeah, just calling Pup for a  
14 legal rep, I'm not sure there is any truth to that.  
15 Overruled.

16 MS. JACKS: I think he was going to get  
17 into what Mr. Baca allegedly said.

18 THE COURT: He didn't get to it yet. So  
19 are you going to solicit this out-of-court  
20 statement?

21 MR. CASTELLANO: Yes, Your Honor.

22 THE COURT: What's the exception for it?

23 MR. CASTELLANO: It's a statement by a  
24 party opponent, if it's Mr. Baca.

25 THE COURT: All right. Well, then the



1 comments can be used against Mr. Baca, but not the  
2 other three defendants.

3 MR. CASTELLANO: I understand, Your Honor.

4 BY MR. CASTELLANO:

5 Q. So let me back up for a second. I want  
6 you to explain this process to the jury. You get  
7 caught with a shank?

8 A. Yes.

9 Q. And is there an administrative process for  
10 that?

11 A. Yes. It's like a -- when you get a  
12 report, you have a right to call for a legal rep,  
13 somebody to represent you that's probably smarter.  
14 And they call you out to have that legal meeting.  
15 That's what it's called, a legal meeting, with that  
16 person, and then so that we could go to prepare for  
17 a hearing, just like court, kind of, and that's what  
18 that is.

19 Q. So is this like having a trial in the  
20 prison?

21 A. Yes.

22 Q. And you can have another inmate represent  
23 you or help you?

24 A. Yes.

25 Q. And at this point, did you select Mr.

1 Baca?

2 A. Yes.

3 Q. So tell us about this conversation you had  
4 with them during the legal meeting.

5 A. We talked a little bit about me getting  
6 busted with the shank, and then the rest was why he  
7 got locked up. He showed me his paperwork, why he  
8 got locked up, and that he was real pissed off at  
9 the reasons why he was taken out of Level 4.

10 And so once we got in that conversation,  
11 he started talking about how he -- who he had  
12 thought that was responsible for him getting locked  
13 up, and what he wanted done.

14 Q. Now, when you say "locked up," did he get  
15 removed from the pod?

16 A. Yes, he was kited out, they call it. It's  
17 where there was like three different kites, from  
18 what I remember, three different reasons why he got  
19 locked up.

20 Q. All right. So what did he tell you about  
21 getting kited out and his feelings about it?

22 A. He thought it was -- he assumed it was  
23 Dan Dan, Javier, and Drama, between them three, that  
24 had -- they had something to do with him being  
25 locked up.

1 Q. Do you know Drama's name?

2 A. No.

3 Q. When you say "Javier," are you referring  
4 to Javier Molina?

5 A. Yes. They all lived in blue pod with him.  
6 And he assumed that it came from blue pod. That's  
7 why he got locked up.

8 Q. And as a result of Mr. Baca getting kited  
9 out, where did he eventually end up?

10 A. In the hole with me. Well, he was  
11 actually there before I got there. I got there like  
12 a week later, in segregation, where we were at.

13 Q. And were you in segregation because of the  
14 shank?

15 A. Yes.

16 Q. After the Javier Molina murder happened,  
17 did you get a chance to talk to other SNM members  
18 about that murder?

19 A. No. You're talking about after the  
20 murder?

21 Q. Correct.

22 A. After the murder, yeah, there was talk, I  
23 mean, but we kind of were quiet because of the way  
24 they had us shut down, we were pretty much like --  
25 we couldn't really talk to nobody, like, about

1 things, because we didn't know what was going on at  
2 the time for a while.

3 Q. Now, after the murder took place, were you  
4 housed at some point with Mario Rodriguez?

5 A. He was actually in the next pod. I mean,  
6 eventually we were together. But at the very  
7 beginning of the stages, when the murder first  
8 happened, they put him in the next pod, and I would  
9 see him in the yard.

10 Q. Now, when you're housed with him, which  
11 facility is this?

12 A. The North, PNM North.

13 Q. After the murder, was Mario Rodriguez  
14 moved from the Southern to the North facility?

15 A. Yes.

16 Q. And did he talk to you? I don't need to  
17 know what he told you at this point, but did he talk  
18 to you about the murder and how it went down?

19 A. No, he never really talked to me about the  
20 murder. He would just -- the only thing he had ever  
21 said was --

22 MS. JACKS: Objection, hearsay.

23 THE COURT: We're still -- well, how do  
24 you link this?

25 MR. CASTELLANO: I agree that's hearsay,

1 Your Honor. I'm not trying to elicit that.

2 THE COURT: All right.

3 BY MR. CASTELLANO

4 Q. Did Mario Rodriguez express to you that he  
5 was upset with anybody following the Molina murder?

6 A. Yes.

7 Q. With whom was he upset?

8 MS. JACKS: Objection, hearsay.

9 THE COURT: Sustained.

10 BY MR. CASTELLANO

11 Q. As a result of this conversation, did you  
12 agree to put a hit on anybody?

13 A. Yes.

14 Q. And who was that?

15 A. Robert --

16 MS. JACKS: Objection, based on hearsay.

17 THE COURT: Well, this is a decision he  
18 made. However he made it is not important. He made  
19 a decision. Overruled.

20 BY MR. CASTELLANO

21 Q. Who did you agree should be hit as a  
22 result of the Molina murder?

23 A. Ron Ron, Ronald.

24 Q. Who is Ron Ron?

25 A. That's Dan Dan's brother.

1 Q. Is his name Ronald Sanchez?

2 A. Yes.

3 Q. Why was there an agreement to hit Ronald  
4 Sanchez?

5 A. Because Dan Dan was out of state, and  
6 couldn't -- couldn't get him.

7 Q. And did you agree that Ronald Sanchez  
8 should be hit in Daniel Sanchez' place for something  
9 that happened related to the Molina murder?

10 A. Yes.

11 Q. And who was part of that agreement? I  
12 don't need to know what they said. I just want to  
13 know who was part of that agreement.

14 A. Baby Rob, myself; I think Spider. I'm not  
15 too sure who else. I think there was a few of us  
16 that were in the yard that day and came to an  
17 agreement on that.

18 Q. And is this Spider, David Calbert?

19 A. Yes.

20 Q. Now, before the Molina murder, did you  
21 ever have a conversation with Anthony Baca about  
22 Mr. Molina getting killed or the fact that he should  
23 be killed?

24 A. The only conversation we had was in 2013  
25 in the yard, when he mentioned BB might have the

1 paperwork, and that he was holding out, and that --  
2 for me to ask him and try to get that out of him,  
3 and that needed to be done, that needed to be taken  
4 care of immediately, is the way he put it.

5 Q. Who was BB?

6 A. Javier Rubio.

7 Q. What did you understand Mr. Baca to mean  
8 when he said that needed to be taken care of  
9 immediately?

10 MR. LOWRY: Objection, calls for  
11 speculation.

12 THE COURT: It's his understanding.  
13 Overruled.

14 A. Do I answer that?

15 BY MR. CASTELLANO:

16 Q. Yes.

17 A. He wanted him to be taken care of, killed.

18 Q. And who is "he"?

19 A. Javier Molina and BB at the time. If BB  
20 was holding out on the paperwork, then BB should be  
21 hit, too. Because we come to believe that BB had  
22 the paperwork.

23 MR. LOWRY: Objection. There is not even  
24 a pending question.

25 THE COURT: Overruled.

1 BY MR. CASTELLANO:

2 Q. And who was BB at the facility? What was  
3 his responsibility?

4 A. He was part of the tabla, the table. He  
5 was a leader.

6 Q. So a leader who may have paperwork or is  
7 keeping it from others -- does that create a  
8 problem?

9 A. Yes.

10 Q. Why?

11 A. Well, because if he's holding out on that,  
12 he's just as guilty as the guy that he's protecting.

13 Q. Okay. Now, you mentioned that following  
14 the Molina murder, that you said there was a big  
15 response by the Corrections Department?

16 A. Yes.

17 Q. What did the Corrections Department do to  
18 all SNM Gang members?

19 A. Stripped us, took all our stuff away; put  
20 us in strip cells; left us there for, like, three  
21 days like that, nothing but a mattress.

22 Q. How did you feel about that?

23 A. I was angry, pissed off, because I had  
24 nothing to do with that murder, and the way they  
25 were treating us.



1 Q. Did you feel that you were being held  
2 accountable for something you didn't do?

3 A. Yes.

4 Q. Did that seem fair to you?

5 A. No.

6 Q. And for getting locked down like that, did  
7 you expect that there should be some sort of process  
8 through the prison?

9 A. Yes. We're used to -- the way the policy  
10 states is that we're supposed to be -- we have a  
11 process that we go through, that if they're going to  
12 take our property, they've got to take us to a  
13 hearing first. And they didn't do that.

14 THE COURT: Mr. Castellano, would this be  
15 a good time for us to take our morning break?

16 MR. CASTELLANO: Yes, Your Honor.

17 THE COURT: All right. We'll be in recess  
18 for about 15 minutes. All rise.

19 (The jury left the courtroom.)

20 THE COURT: All right. We'll be in recess  
21 for about 15 minutes.

22 (The Court stood in recess.)

23 THE COURT: All rise.

24 (The jury entered the courtroom.)

25 THE COURT: I meant to mention this

1 morning that Ms. Fox-Young's baby is still running a  
2 fever, so she's going to be with him this morning.  
3 She may come in this afternoon. But that's where  
4 she is.

5 All right. Mr. Martinez, I'll remind you  
6 that you're still under oath.

7 Mr. Castellano, if you wish to continue  
8 your direct examination of Mr. Martinez, you may do  
9 so at this time.

10 MR. CASTELLANO: Yes, sir, thank you.

11 THE COURT: Mr. Castellano.

12 BY MR. CASTELLANO:

13 Q. Mr. Martinez, I want to take you back to  
14 2013, and ask you if you also have a conviction for  
15 possession of a deadly weapon or explosive by a  
16 prisoner.

17 A. Yes.

18 Q. And how did that come about?

19 A. It was during that shakedown that I spoke  
20 of earlier, when me and Crazo and a few of us got  
21 locked up for -- they found shanks in our cell.  
22 They found a weapon in my cell.

23 Q. And is this the same incident that you met  
24 with Mr. Baca?

25 A. Yes.

1 Q. And so when you met with him, was that  
2 part of the administrative process of the prison and  
3 not part of a criminal case?

4 A. Right -- it was both -- I mean, I got  
5 charged on the streets, but they also do their  
6 administration thing, so I got charged both with --  
7 on the street charges and in prison.

8 Q. So as a result of the prison proceedings,  
9 what was the consequence to you there?

10 A. I got found guilty, and they gave me some  
11 disciplinary time.

12 Q. And when things like that happen, does  
13 that also result in the loss of good time?

14 A. Yes.

15 Q. And then, in addition to what happened in  
16 prison, then were you prosecuted here in Las Cruces  
17 in state court?

18 A. Right.

19 Q. Do you remember how much time you got for  
20 that?

21 A. I got eight and a half years suspended,  
22 and got six months as part of a plea. I took a  
23 plea, something to that effect.

24 Q. Why did you agree to cooperate in this  
25 case?

1           A.     December 3, around there, the first week  
2 of December.

3           Q.     And why did you agree to do so?

4           A.     Because I was already tired of being --  
5 living that life, and just wanted to do the right  
6 thing.

7           Q.     Now, when you agreed to cooperate, did the  
8 FBI sign you up as a confidential human source or a  
9 confidential informant?

10          A.     Yes.

11          Q.     As a result of getting signed up as a  
12 confidential human source, did you receive money  
13 from the FBI?

14          A.     Yes.

15          Q.     And do you remember if the total amounted  
16 to \$1,350?

17          A.     Right.

18          Q.     At some point did you lose the ability to  
19 work as a confidential informant for any kind of  
20 misconduct?

21          A.     Yes.

22          Q.     What was the misconduct?

23          A.     They found pills in my mattress.

24          Q.     What kind of pills were they?

25          A.     The medication I take. I just had stored

1     them up, and there was more than what I should have  
2     had.

3             Q.     And did you also receive a tablet for  
4     reviewing discovery in this case?

5             A.     Yes.

6             Q.     What happened to that tablet?

7             A.     I broke into it.

8             Q.     And when you broke into it, did you figure  
9     out a way to reset the tablet?

10            A.     Yes.

11            Q.     What was the tablet able to do once you  
12     reset it?

13            A.     Well, it erased all my discovery, for one.  
14     And then it reset it back to the original,  
15     whatever -- the Windows 10, I think it was, and  
16     allowed it to -- all the features to work on the  
17     tablet; and that's on the tablet.

18            Q.     And where were you when you first reset  
19     the tablet?

20            A.     I was at PNM North.

21            Q.     And eventually at PNM North were you able  
22     to access the internet or the Wi-Fi capabilities?

23            A.     No. At the time I was the only one that  
24     had my tablet like that. I didn't know much about  
25     Wi-Fi. I didn't know what that was. Kreaper is the

1 one that kind of told me about it, because he's the  
2 only one that knew about the thing, because we had  
3 an SD card, and that's how it started, breaking into  
4 the tablet.

5 Q. Is Kreaper also known as Jerry Armenta?

6 A. Yes.

7 Q. And eventually did you leave that facility  
8 and arrive at the Sandoval County Detention Center?

9 A. Yes.

10 Q. Once at the detention center, did you  
11 learn that you could access the internet by using  
12 the tablet?

13 A. Yes. By that time, almost everybody that  
14 was living in that pod had -- I did their tablet,  
15 too. And Kreaper was the first one to get a Wi-Fi  
16 connection.

17 Q. Did you say that you helped the others  
18 reset their tablets?

19 A. Yes, I helped Playboy, Kreaper, Ben Clark,  
20 like that, people like that. Some didn't get theirs  
21 right away. I just did it to a few.

22 Q. And then what did you do with your tablet  
23 once you had access to the internet?

24 A. Well, I would lend it. Because the cell  
25 that I lived in, I couldn't get it. So I would give

1 it to Kreaper, and Kreaper would look up stuff for  
2 me, like porn and all that, and put it on there for  
3 me, and I would get it back; till they moved me into  
4 a cell where I could get it.

5 Q. Okay. So what did you eventually do with  
6 your tablet? You mentioned pornography?

7 A. Um-hum.

8 Q. What else?

9 A. Facebook, Gmail, video games. That's it.

10 Q. And once it was discovered that you had  
11 tampered with the tablet, did you get the tablet  
12 back?

13 A. No. They took it from me. I haven't had  
14 it since.

15 Q. About when was that?

16 A. It was last year. I can't remember  
17 exactly when.

18 Q. Did you say it was the beginning, middle,  
19 or end of last year?

20 A. About the middle.

21 Q. Can you tell the members of the jury  
22 whether, after you pled guilty and agreed to  
23 cooperate, you used any controlled substances?

24 A. Yes, I used Suboxones.

25 Q. Did you use anything else?

1 A. No.

2 Q. And about -- where were you when you used  
3 Suboxone?

4 A. Sandoval, Lea County. That's about it.  
5 Them two places.

6 Q. Do you use any other drugs?

7 A. No.

8 Q. Why not?

9 A. I stopped using in 2001, because I started  
10 reading the Bible and things like that. I stopped  
11 doing everything. And in 2008, I got real bad  
12 hepatitis C, so I took the treatment. And after  
13 that, I just made sure never to -- I mean, I hadn't  
14 been doing it since 2001, but at that time when I  
15 got that treatment, I didn't get tattoos. I won't  
16 use needles or nothing.

17 Q. All right. In a prison facility, what's  
18 the problem with getting tattoos or using needles?

19 A. Getting hepatitis C.

20 Q. So since that time, have you used any  
21 other drugs, other than Suboxone?

22 A. No, I haven't.

23 Q. Now, in addition, as part of your  
24 cooperation, did you agree to assist Agent Acee in  
25 providing gang training to law enforcement officers?



1 A. Yes.

2 Q. And you also agreed to participate in  
3 anti-gang programming for youth offenders?

4 A. Yes.

5 Q. Also as part of your cooperation, were you  
6 provided a contact visit with your daughter?

7 A. Yes.

8 Q. And at some point were you involved with,  
9 I guess I'll call it, a celebration? It was a pizza  
10 party with other cooperators?

11 A. Yes.

12 Q. And who was there?

13 A. Bryan, Mark Myers, all the cooperators. I  
14 can't remember who else. Oh, Nancy was there.

15 Q. Is that Nancy Stemo?

16 A. Yes.

17 Q. When you say "Bryan," is that Agent Bryan  
18 Acee?

19 A. Yes.

20 Q. Also as part of any benefits you received,  
21 were you -- did you participate in philosophy  
22 classes?

23 A. Yes.

24 Q. What was the purpose of them providing  
25 philosophy classes for you?

1           A.     To learn how to speak and just to be  
2     educated.

3           Q.     What about changing your way of thinking?

4           A.     Yeah, changing -- like to get our heads  
5     to -- on the right path, to be -- to stop thinking  
6     the way we used to think, you know; to train us how  
7     to think different.

8           Q.     All right. I want to take you back now to  
9     before the break. You were telling the jury that  
10    you guys got locked down; you didn't think it was  
11    fair. What did you do as a result of being upset  
12    about this?

13          A.     I filed a lawsuit. I started doing a  
14    paper trail, is what it's called. I filed  
15    grievances, things like that, to give the State an  
16    opportunity to correct itself, because it had  
17    violated its own policies.

18          Q.     All right. What happened as a result of  
19    starting that process?

20          A.     Derek Williams, the deputy warden at the  
21    time, answered one of them, which he wasn't supposed  
22    to answer the way he did, but he did. And it helped  
23    me in my lawsuit. He had answered, saying that the  
24    SNM is involved in a murder, something to the effect  
25    that we're on restriction, which is illegal in the

1 state policies, that they weren't to restrict us  
2 over a murder. They can do an investigation, but  
3 they couldn't restrict us. And he worded it just  
4 like that, "restricted us," that we're on  
5 restriction. So based on that, I started filing --  
6 educating myself on how to do a lawsuit.

7 Q. Now, when you said you learned to do a  
8 lawsuit, did you hire an attorney, or did you do  
9 this on your own?

10 A. I did it on my own.

11 Q. And what happened with your lawsuit?

12 A. I ended up getting it. I filed for a  
13 dismissal based on my cooperation, that I was  
14 cooperating, and the victim that I had was Gregg  
15 Marcantel. So he's the one that I was filing the  
16 lawsuit against, so I decided not to drop it.

17 Q. At some point as a result of being upset  
18 about the lockdown, did you form a plan or agree  
19 with others to kill Mr. Marcantel and  
20 Mr. Santistevan?

21 A. Yes.

22 Q. Okay. Who was Gregg Marcantel?

23 A. He's the Secretary of Corrections.

24 Q. And who is Dwayne Santistevan?

25 A. He was head of the STIU at the time, that

1 I understood.

2 Q. What was the problem that you had with  
3 him?

4 A. I really didn't have a problem with him.  
5 It's -- it started in 2013, when I had a  
6 conversation with Pup, and that's when that  
7 conversation started with me and Eric Duran. We're  
8 out in the yard, and he was frustrated with Level 4.  
9 He said that he wanted to turn the Level 4 upside  
10 down; that -- because they locked him up, and he was  
11 frustrated with the administration, because I guess  
12 something to the effect that he was trying to get  
13 out. He was writing letters and stuff to get out,  
14 back to Level 4.

15 Q. This is Mr. Duran, or is it Mr. Baca?

16 A. Mr. Baca.

17 Q. Okay. Now, you said he started writing  
18 letters?

19 A. To -- I guess, to Santistevan, to let him  
20 out. And Santistevan told him, "No, you're not  
21 getting out. You're gone."

22 He was pretty pissed off at that.

23 Q. So what discussions did you have back in  
24 2013 about either Mr. Santistevan or Mr. Marcantel?

25 A. We didn't have a conversation about

1 Marcantel. He didn't mention Marcantel at all in  
2 2013. He just said it would be easy to get  
3 Santistevan's son, which was an LT at the time.  
4 Santistevan's son was an LT, lieutenant, at the  
5 Central New Mexico Corrections Facility, and he said  
6 that he wanted to try to get him hit to make a  
7 point.

8 Q. And is this Mr. Baca?

9 A. Yes.

10 Q. This is a conversation the two of you had?

11 A. Three of us: Me, him, and Crazo.

12 Q. And is Crazo Eric Duran?

13 A. Yes.

14 Q. So tell us more about this conversation.

15 A. That's about it. He just said that, and  
16 he was frustrated with the Level 4, he was done  
17 with -- he wanted to flip it upside down; that they  
18 were just a bunch of informants, you know,  
19 worthless, and he was really pissed off. He was  
20 pissed off at the administration for not letting him  
21 out, and how they're always locking him up, and it  
22 was time; he wanted something done.

23 Q. And did you agree that something should be  
24 done?

25 A. Yes.

1 Q. What happened as a result of this  
2 agreement?

3 A. Me and Crazo pretty much agreed that we'll  
4 get it done if we can.

5 Q. And you mentioned Dwayne Santistevan's  
6 son. At this point, was it anybody in  
7 administration, or how did you focus this agreement?

8 A. I just figured it was due to the gang  
9 unit; that Santistevan -- that he was a target  
10 because he was responsible for our movement, for  
11 SNM. So that's who he was pissed off at.

12 MR. CASTELLANO: May I approach the  
13 witness, Your Honor?

14 THE COURT: You may.

15 BY MR. CASTELLANO

16 Q. Mr. Martinez, I'm going to show you what's  
17 been marked for identification as 273, 274, and 275.  
18 Go ahead and look at those, and tell us if you  
19 recognize them.

20 A. Yeah, I recognize them.

21 Q. How do you recognize them?

22 A. It's my writing. It's what I said. These  
23 are -- we called them -- we had a nickname for  
24 these. We called them golden tickets.

25 Q. All right. Why did you call them that?

1           A.     Because that was what was going to get  
2 things done on the streets.

3           Q.     And if you remember, approximately when  
4 did you write those?

5           A.     2015, around the beginning of 2015, I  
6 believe. I'm not too sure.

7           Q.     And other than redactions of things like  
8 address and phone numbers, does it appear to be a  
9 photocopy of the letters that you wrote?

10          A.     Yes.

11                 MR. CASTELLANO: Your Honor, I'd move the  
12 admission of Government's Exhibits 273, 274, and  
13 275.

14                 THE COURT: Any objection?

15                 MR. LOWRY: No objection, Your Honor.

16                 THE COURT: Not hearing any objection,  
17 Government's Exhibits 273, 274, and 275 will be  
18 admitted into evidence.

19                 (Government Exhibits 273, 274, and 275  
20 admitted.)

21 BY MR. CASTELLANO

22           Q.     Mr. Martinez, I know the writing is small  
23 on one of those. I'm going to leave those copies  
24 with you, if you need those. And I'm also going to  
25 show you on the monitor Exhibit 273.

1 A. Okay.

2 Q. And we can actually make this writing  
3 larger if it helps you. Does it help at all, or are  
4 you able to see it on the screen?

5 A. I can see that.

6 Q. So if you can, I'm going to have you read  
7 this to us, please. And first of all, who did you  
8 address it to, if you remember?

9 A. This one was going to Lonely Boy, I think.

10 Q. Who is Lonely Boy?

11 A. Arthur Chavez.

12 Q. Was he an SNM Gang member?

13 A. Yes.

14 Q. All right. Go ahead. And please begin  
15 reading.

16 A. "Q-vo, homie, Lonely. The viejo told me  
17 to get at you concerning the list you and him talked  
18 about. We have been through a small transition due  
19 to the tactics of Gregg Marcantel. He has degraded  
20 the viejo and dishonored the familia."

21 Q. Let me stop you there. Who is the viejo  
22 that you're referring to?

23 A. Pup.

24 Q. And who is Pup?

25 A. Anthony Baca.



1 Q. And who is the "familia" that's been  
2 dishonored?

3 A. SNM.

4 Q. Please continue.

5 A. "It is vital that you understand this.  
6 And we have decided to make a statement of our own.  
7 This is not a request. It is an objective" -- or  
8 directive, I can't -- I don't remember what I put.  
9 Objective, I think -- "that must be handled  
10 carefully and discreetly. We have three carnals out  
11 there who are on standby, and who are ready at our  
12 word to take out the carnals who dishonor their  
13 orders. We have made some changes and there will be  
14 no more second chances. The viejo spoke with you  
15 about the list, so now it's time to get it done."

16 Q. Let me stop you there. Does the viejo  
17 still refer to Anthony Baca?

18 A. Yes.

19 Q. And what are you talking about when you  
20 say that he spoke to him about a list?

21 A. About -- what -- at the time we were  
22 talking about the administration, the list of  
23 Santistevan -- both Santistevans should be hit.

24 Q. Okay. And so initially, you told us that  
25 it started with his son. How is it that this letter

1 now focuses on people like Santistevan and  
2 Marcantel?

3 A. Because Eric -- when me and Eric had a  
4 conversation -- a few conversations, actually -- he  
5 told me that Pup was in contact with him, and read  
6 me a letter that Pup had wrote him. Pup trusted  
7 Crazo a lot. And he had told me, he said, "Hey, he  
8 wants to make a bigger statement. Not just  
9 Santistevan anymore. He wants to go higher."

10 And he was pissed off, the way Marcantel  
11 had talked to him, degrading him in front of  
12 everybody.

13 Q. Now, what are you referring to there when  
14 you said he degraded him in front of everybody?

15 A. Well, because Marcantel had made one of  
16 them -- he had made, like, a gesture saying that you  
17 guys -- your leaders, your so-called leaders, are  
18 crybabies. You know, they were crying when they  
19 left there this morning, and stuff like that. And  
20 he got wind of it. He heard about what happened.  
21 And so Crazo had ran it down to me that he was  
22 pissed off; he wanted something done; he wanted it  
23 done.

24 Q. Did Mr. Baca see that as disrespectful  
25 towards him?

1 A. Yes.

2 Q. You said, "When he was leaving." Where  
3 was he leaving?

4 A. Out of state.

5 Q. So as a result of the Molina murder, did  
6 he and others get sent out of state?

7 A. Yes.

8 Q. Please continue.

9 A. Reading?

10 Q. Yes.

11 A. Where was I at?

12 Q. We were talking about the list. The viejo  
13 spoke with you about a list.

14 A. "So now it's time to get it done. The  
15 priority is the head of the NMCD, Marcantel. He  
16 must go. The following are some carnals who you are  
17 to get in contact with and organize the objective.  
18 If they refuse, you have the green light to handle  
19 them. You have the green light to get this  
20 objective done by any means possible. You have  
21 until midnight, August 31, to get this done. If you  
22 fail or reject this" --

23 Q. At the top, "If you fail or reject  
24 this" --

25 A. -- "order, the carnals will visit you and

1 you will not get a second chance. However, if you  
2 do, you will have the keys to those same carnals at  
3 your disposal. And there are only three, so that  
4 the risk is minimal."

5 Q. What are you talking about, the keys to  
6 those carnals?

7 A. Like they have authority over them.

8 Q. Please continue reading.

9 A. "But those three brothers are only on  
10 standby for carnals who fail us or reject us. They  
11 remain secret, and are not to be used for the  
12 objective. If they see you talking to the cops,  
13 they will visit you. So, my brother, get this done  
14 and make the statement with us. Here is the carnals  
15 for you to get in contact with, and get them on the  
16 mission. They don't have a choice. They need to  
17 earn their bones. If they refuse, it is your duty  
18 to handle it before we have" --

19 Q. Where it says "before we have to step in"?

20 A. Yeah. I don't know where it's at. Oh,  
21 yeah: "If they refuse, it is your duty to handle it  
22 before we have to step in."

23 And then I gave Cuba, Gotti, Spider, Mono,  
24 Mando, and Kilo their info, their numbers, and stuff  
25 like that. Their info.

1 Q. Who were those individuals you just named?

2 A. They were all carnals, SNM.

3 Q. What does the bottom of the letter say?

4 A. It says, "These six brothers are under  
5 you. The order is for them. You are in charge. Do  
6 what you have to do. But get it done. The person  
7 who gives you this, she will keep in touch. From  
8 here on, we will get ahold of you. Do not write us  
9 or try to get ahold of us, because they are on us  
10 deep. Keep your head up. Catos 4 life, Amor."

11 Q. Up above, it refers to the head of the  
12 NMCD, Marcantel. What is the NMCD?

13 A. New Mexico Corrections Department.

14 Q. Why did you write this letter?

15 A. To get Marcantel hit.

16 Q. And did you really want that to happen?

17 A. Yes.

18 Q. How upset were you with him and the  
19 administration as a result of getting locked down  
20 and things of that nature?

21 A. I was pretty upset.

22 Q. And you mentioned Marcantel by name. So  
23 this really isn't a coded letter. How did you  
24 expect this to get out of the prison and onto the  
25 streets?

1 A. Well, Crazo had a way of -- we had done  
2 this before. We had to send it legal mail, out to  
3 his girl, and then his girl would give it to other  
4 people and stuff. So I trusted that way. And  
5 that's where we sent it, how we sent it, or how I  
6 believed it was at the time.

7 Q. And so did -- based on a prior success  
8 getting things through, did you believe that this  
9 would also get through?

10 A. Yes.

11 Q. Let me turn your attention to 274. This  
12 is another letter that you wrote?

13 A. Yes.

14 Q. Go ahead and begin reading, please.

15 A. "Q-vo, carnal. It's time to make a  
16 statement to Gregg Marcantel. He needs to listen to  
17 us. The big homie got at you in Cruces and ran it  
18 down to you already back in '13. So you on point."

19 Q. Let me stop you there. When you say  
20 "Q-vo," what does that mean?

21 A. "Q-vo" just means, like, "hi."

22 Q. And then you refer to a big homie getting  
23 back to him in '13. What does that mean?

24 A. Because at the time Crazo had told me  
25 something about him knowing what Pup -- what we

1 talked about with Pup in 2013, and that he had got  
2 at Gotti already about some of that stuff. So  
3 that's what I was talking about.

4 Q. Who is Gotti?

5 A. He was a brother. I don't know his real  
6 name.

7 Q. Please continue reading.

8 A. "So now get it done, homie. Here is  
9 Cuba's, whatever, address, number. Ask for Damian,  
10 this and that, or go to" -- and then I gave some  
11 other address. "Tell him he needs to go with you on  
12 this mission. There are three brothers on standby  
13 if any brother refuses this. So it's your call. If  
14 Cuba refuses, set an example. We are done playing  
15 games and giving people breaks. From now on,  
16 whoever turns their backs on us out there will be  
17 dealt with out there. So in July, August, a carnal  
18 will get at you with some info on the target. But  
19 if you get it first, handle it. Amore, Catos for  
20 life. Big homie."

21 Q. And is Amore a way that you talk to each  
22 other sometimes?

23 A. Yes.

24 Q. And what do you mean when you say Catos?

25 A. Sindicatos. That's an old -- Angel is the

1 one that taught me how to say that among the big  
2 homies.

3 Q. And it says, "If Cuba refuses, set an  
4 example." What do you mean when you say that?

5 A. Kill him.

6 Q. Let's turn to Exhibit 275. Do you  
7 remember when you wrote these? You referred to, I  
8 think, the July-August timeframe in some of these  
9 letters. So was this before July or August of 2015?

10 A. Yes.

11 Q. Let me have you begin reading this letter,  
12 please.

13 A. "Carnalito, the big homies have come  
14 together and we have decided that those of you who  
15 are out there and still need to show your loyalty,  
16 your time has come. There is a mission for that  
17 needs to be done. The homie, Gotti, will get in  
18 contact with you, and here is his number. The  
19 sooner you call, the better. Both of you will be  
20 given until August or September to accomplish the  
21 following goal. There are three brothers on standby  
22 if you should feel as though you are not obligated  
23 to fulfill your responsibility. The name Gregg  
24 Marcantel is a name you should know. He sent a  
25 message to us and made his statement. Now we are



1 ready to make ours. He needs to go, and both of you  
2 need to get it done clean. Get everything ready and  
3 our brother will get at you in July or August. This  
4 is not a request or a democracy. It needs to get  
5 done. And if we have to find someone else, then the  
6 brothers who found you to give you this message will  
7 deal with you and your family, whoever you are with.  
8 So honor your obligation to the family and get this  
9 done. Catos for life. Amor."

10 Q. Now, there is a portion here where it  
11 says -- he's referring to Marcantel: "He sent a  
12 message to us and made his statement, and now you  
13 guys want to make yours." What is the statement  
14 you're referring to that Marcantel sent you?

15 A. After the murder of Javier Molina, they  
16 locked us up, had us in those strip cells, and then  
17 Marcantel came himself personally and told us about  
18 Pup being a crybaby, pretty much saying -- he didn't  
19 use them words exactly -- but he said something to  
20 the effect that your so-called leaders are on their  
21 way out and, guess what, they were crying.

22 And talking like that to us in the pod, in  
23 front of everybody. And at that time he pulled all  
24 the SNM members out in handcuffs to talk to us about  
25 that.

1 Q. And so even before the Molina hit, was Mr.  
2 Baca angry with the administration?

3 A. Yeah, he was already angry because of them  
4 locking him up.

5 Q. And then after the Molina murder, was  
6 Gregg Marcantel then added to this hit list, in  
7 addition to Santistevan?

8 A. Yes.

9 Q. What about somebody named Adam Vigil?

10 A. He wasn't, no. We didn't really talk  
11 about him.

12 Q. He wasn't part of your conversation?

13 A. No, he wasn't part of my conversation with  
14 him. He was mostly pissed off at Santistevan when I  
15 first talked to him.

16 MR. CASTELLANO: May I have a moment, Your  
17 Honor?

18 THE COURT: You may.

19 MR. CASTELLANO: I pass the witness.

20 THE COURT: Thank you, Mr. Castellano.

21 Ms. Bhalla, are you going to take the lead  
22 here?

23 MS. BHALLA: Thank you, Your Honor.

24 THE COURT: Ms. Bhalla.  
25

1 CROSS-EXAMINATION

2 BY MS. BHALLA:

3 Q. Good morning, Mr. Martinez.

4 A. Good morning.

5 Q. You testified on direct that you began  
6 cooperating with the Government I think in December  
7 of 2015; is that right?

8 A. Yes.

9 Q. And I believe at some point you had a  
10 meeting with them -- and I think Agent Acee was  
11 there, and I think Mr. Castellano was there -- and  
12 that was on December 17. Does that sound right?

13 A. Yes.

14 Q. Okay. And were you truthful with them in  
15 that meeting?

16 A. Yes.

17 Q. Okay. So you wanted to tell them what you  
18 knew in a truthful fashion?

19 A. Yes.

20 Q. Okay. One of the things that you did in  
21 that meeting, at least the way that I read the  
22 report, is, you took the opportunity to tell them  
23 about some current hits that were out on members of  
24 the SNM. Do you recall that conversation?

25 A. Yeah.

1 Q. And those were hits that were outstanding?

2 A. Yes.

3 Q. Okay. And one of the people that you  
4 warned about being hit was Carlos Herrera. Do you  
5 recall that?

6 A. Yes.

7 Q. Okay. And part of the reason that there  
8 was a hit on Carlos Herrera was because he refused  
9 to follow orders to have Javier Molina killed; isn't  
10 that correct?

11 MR. CASTELLANO: Objection, calls for  
12 hearsay.

13 THE COURT: Well, are you trying to elicit  
14 that out-of-court statement?

15 MS. BHALLA: I think it goes to 803(3),  
16 Your Honor. And if I'm correct, the Government has  
17 relied on that a lot to get in similar plans.

18 THE COURT: Well, but whose state of mind  
19 are you trying to get this --

20 MS. BHALLA: This witness' state of mind,  
21 Your Honor.

22 THE COURT: Well, I don't see how that's  
23 relevant here. Sustained.

24 BY MS. BHALLA:

25 Q. Did you have any personal knowledge about

1 that plan?

2 A. What plan, Miss?

3 Q. The plan to have Carlos Herrera hit.

4 A. No.

5 Q. Okay. That was just something you heard  
6 about?

7 A. Um-hum.

8 Q. Okay.

9 A. Yes.

10 Q. You also discussed a meeting that took  
11 place talking about how things were going in the SNM  
12 and that you testified that Carlos Herrera was  
13 present for that meeting. Do you recall?

14 A. That he was present for the meeting?

15 Q. Yeah, that you had a meeting in 2013 in  
16 Southern, and that Carlos Herrera was there for that  
17 meeting?

18 A. Yes.

19 Q. And you testified a little bit about that  
20 meeting, but part of what you told the Government  
21 was that the purpose of that meeting was that people  
22 needed to stop killing each other in the SNM; isn't  
23 that right?

24 A. Right.

25 Q. And that people needed to stop spreading

1 rumors about other members in the SNM; right?

2 A. Yes.

3 Q. And at some point you sent a letter to  
4 Agent Vigil; is that correct?

5 A. Yes.

6 Q. And in that letter you asked to get  
7 transferred back to Southern -- and this was after  
8 you were cooperating; right?

9 A. Yes.

10 Q. And in that letter you asked to get  
11 transferred back to Southern?

12 A. Yes.

13 Q. And you got asked to move -- to be moved  
14 into the same pod as Carlos Herrera; do you recall  
15 that?

16 A. Yes.

17 Q. And part of the reason that you wanted to  
18 do that was because you said that Carlos got along  
19 with people and didn't plot to kill other people;  
20 isn't that true?

21 A. Right.

22 MS. BHALLA: May I have a moment, Your  
23 Honor?

24 THE COURT: You may.

25 MS. BHALLA: I'll pass the witness, Your

1 Honor. Thank you.

2 THE COURT: Thank you, Ms. Bhalla.

3 Mr. Lowry, do you have cross-examination  
4 of Mr. Martinez?

5 CROSS-EXAMINATION

6 BY MR. LOWRY:

7 Q. Good morning, Mr. Martinez.

8 A. Good morning.

9 Q. Mr. Martinez, you really didn't like the  
10 restrictive conditions when you were locked down,  
11 did you?

12 A. No, sir.

13 Q. And you testified this a little bit on  
14 direct, but after, when you were locked down, you  
15 did file a civil suit against the prison system?

16 A. Yes.

17 Q. And as part of that suit, you talked about  
18 the disrespect you felt from the administration?

19 A. Right.

20 Q. And even mentioned as part of that suit  
21 the disrespect that Secretary Marcantel -- you felt  
22 he gave to you when he spoke to you and other SNM  
23 members; correct?

24 A. Yes.

25 Q. And in your civil suit at paragraph 18,

1 you quoted Defendant Marcantel as stating, "Your  
2 so-called leaders, when they found out they were  
3 being shipped out, guess what, they started crying"?

4 A. Yes.

5 Q. And that was a meeting that happened just  
6 after Mr. Molina had been killed at Southern;  
7 correct?

8 A. That's right.

9 Q. And that meeting, Mr. Marcantel rounded up  
10 everybody and came down to talk to them?

11 A. Yes.

12 Q. And that's when he made that statement?

13 A. Yes.

14 Q. But everybody knew he was lying when he  
15 made that statement?

16 A. Well, yeah. At the time, yes, we were  
17 thinking he was just trying to provoke us.

18 Q. But it made you upset.

19 A. Right.

20 Q. And that's something that carried forward  
21 with you?

22 A. Yes.

23 Q. Now, over the course of 2015, the lawsuit  
24 was filed. Do you remember when you filed it? May  
25 26, 2015? Does that sound right?



1 A. Yes.

2 Q. And at that point in time, you'd already  
3 met Mr. Duran, and you were living in close  
4 proximity with him; correct?

5 A. He was my neighbor.

6 Q. Right. He was your neighbor, and Robert  
7 Martinez lived on the other side of Mr. Duran?

8 A. Yes.

9 Q. And so you filed this suit, saying, "These  
10 conditions are deplorable. I need to do something  
11 to change them"?

12 A. Yes.

13 Q. But the lawsuit -- you testified on direct  
14 that the administration's response was somewhat  
15 helpful, but it didn't change your conditions, did  
16 it?

17 A. Well, filing the lawsuit was mainly to  
18 prove a point and get them to, yeah, change their  
19 ways with the SNM, but I knew it wasn't going to  
20 happen right away. I didn't expect the change right  
21 away. I just -- I was going to follow through with  
22 the lawsuit.

23 Q. But my question is very simple. Your  
24 conditions didn't change in the summer of 2015, did  
25 they?

1 A. No.

2 Q. And in fact, when your conditions didn't  
3 change, you decided to take another course of action  
4 and you started a letter writing campaign to Adam  
5 Vigil?

6 A. No, that's not how it went down.

7 Q. Okay. So you didn't write Adam Vigil on  
8 September 29, 2015, in the inter-prison mail?

9 A. Yeah, that was later. But the question  
10 you asked earlier is that I didn't just -- because  
11 the lawsuit didn't work and they didn't change, I  
12 didn't just start saying, "All right, well, let's  
13 just start writing letters"; that didn't just pop  
14 into my mind.

15 Q. Did your conditions change in March of  
16 2015?

17 A. No.

18 Q. You filed your lawsuit in May. Did your  
19 conditions change in June of 2015?

20 A. No.

21 Q. Did they change in July of 2015?

22 A. No.

23 Q. Did they change in August of 2015?

24 A. No.

25 Q. And did they change in September 2015?

1 A. No.

2 Q. And at the end of September 2015, you  
3 wrote Adam Vigil a letter in the interoffice mail?

4 A. Yes.

5 Q. And do you remember telling Adam Vigil  
6 that you wanted out; you wanted -- you didn't want  
7 to talk to him; right?

8 A. Right.

9 Q. You didn't want anybody to know you were  
10 talking with him?

11 A. Right.

12 Q. But you wanted to change your  
13 conditions --

14 A. Yeah.

15 Q. -- of confinement?

16 A. I wanted to get out of there, yes.

17 Q. And you told Adam Vigil that you wanted to  
18 go to Arizona?

19 A. Yeah.

20 Q. Because you didn't want to be in the  
21 restrictive conditions that you were housed in in  
22 the Department of Corrections?

23 A. Right.

24 Q. Okay. So you said -- you basically  
25 informed him you were ready to hang up your life and

1 change your ways, and you wanted to relax in  
2 Arizona, get away from it all?

3 A. Yes.

4 Q. Now, in that letter, you made a comment to  
5 Mr. Vigil. And Adam Vigil worked with the Security  
6 Threat Intelligence Unit; right?

7 A. Um-hum.

8 Q. And he worked under Dwayne Santistevan?

9 A. Right.

10 Q. And he was probably the deputy of that  
11 department?

12 A. Yes.

13 Q. You wrote to Adam Villa in your September  
14 29, 2015, letter, "Sometimes I think we all think  
15 you guys set us up to kill each other, the way you  
16 move us with no rats and victims"?

17 A. Yeah.

18 Q. Did you mean that?

19 A. Yes.

20 Q. So what did you mean by that?

21 A. Just what I said. You have us here, and  
22 it seems like you want us to kill each other,  
23 because -- mix us up.

24 Q. So you were essentially placing blame on  
25 the administration for the level of violence in the

1 prison?

2 A. Yes.

3 Q. Saying they knew what they were doing by  
4 placing people who were going to be hurt in an  
5 environment where they were certain to be hurt?

6 A. Yes.

7 Q. And they knowingly did that?

8 A. Yes.

9 Q. And they did really nothing to prevent  
10 that from happening?

11 A. That's what I was thinking at the time,  
12 yes.

13 Q. Now, one of the things that bothered you  
14 about the restrictive conditions of confinement is  
15 all of your electronics had been taken away;  
16 correct?

17 A. Right.

18 Q. Your MP3 player; you couldn't listen to  
19 videos?

20 A. Everything.

21 Q. You could have a TV if you could afford  
22 one, but you didn't have that, either?

23 A. Nothing.

24 Q. And you wrote to Adam Vigil later, after  
25 the 29th, and you said you were soliciting him to

1 help you out, but he didn't really help you out, did  
2 he?

3 A. No.

4 Q. And you said you wanted to talk to him and  
5 you had more -- and I quote from your letter, "I  
6 still had more to talk about now. I won't see my  
7 electronics till December. I haven't had my stuff  
8 since February"; right?

9 A. Um-hum.

10 Q. So you're complaining to him that you  
11 wanted your property back.

12 A. Right.

13 Q. And you'd be willing to help him out as  
14 long as you could get your property back.

15 A. Well, not like that, but I was asking him  
16 if he could help me get it back. That's basically,  
17 you know --

18 Q. And this is later in the fall, because you  
19 said, "I was supposed to get it," meaning your  
20 property, "back on October 12"?

21 A. Um-hum.

22 Q. Right?

23 A. Yes.

24 Q. But you hadn't gotten it back?

25 A. Yeah.

1 Q. And in fact, your conditions got worse  
2 because they assigned you to what they called the  
3 predator program?

4 A. Yes.

5 Q. So your conditions of confinement didn't  
6 get better; they got worse?

7 A. They got worse, yes.

8 Q. I think the saying is, "No good deed goes  
9 unpunished"; right?

10 A. Yes.

11 Q. Now, you wrote yet another letter to  
12 Mr. Vigil in the fall -- and this is before the  
13 December 3, 2015, takedown -- and at this point you  
14 really wanted to get out of your conditions of  
15 confinement, didn't you?

16 A. I was trying to get out, yes.

17 Q. And you even basically write them and say,  
18 "Hey, something is going on with Marcantel but I  
19 want out of it"?

20 A. Yes.

21 Q. And you place the blame in your letter on  
22 Robert Martinez?

23 A. Yes.

24 Q. And you wrote to Adam Vigil and you said,  
25 "Rob went on a mission and wanted to hit major

1 people, and was out of control before he left. So I  
2 backed off. No one but him and I and someone on the  
3 streets knew about his plans"?

4 A. That's right.

5 Q. That's what you told Adam Vigil?

6 A. Yes, because he had disappeared. Robert  
7 had disappeared, and I got paranoid. I started  
8 thinking he --

9 Q. Robert dropped out?

10 A. Yes.

11 Q. He went to the RPP Program?

12 A. Right.

13 Q. The drop-out program?

14 A. Yeah.

15 Q. He said, "I'm hanging up my shingle, I'm  
16 out of here"?

17 A. Well, he didn't say nothing. Actually, he  
18 just left. And I kind of knew...

19 Q. And you could have done that?

20 A. I could have, yeah.

21 Q. But you didn't want to?

22 A. No.

23 Q. Okay. And you could have knocked on the  
24 door at any time and said -- well, you were in Level  
25 6 -- but at any time you could have PC'd.



1 A. Yes.

2 Q. Like you were talking about, you could  
3 have thrown ice on an officer; correct?

4 A. That's right.

5 Q. And you could have gotten out at any  
6 point?

7 A. Yes.

8 Q. But you tried your letter-writing campaign  
9 to do that.

10 A. That's right.

11 Q. And at this point you're writing them,  
12 putting them on notice: I'm withdrawing from this  
13 conspiracy, in your mind?

14 A. Trying to, yeah.

15 Q. In your final letter to Mr. Vigil, you'd  
16 gotten written up for having too much medication in  
17 your cell.

18 A. That's right.

19 Q. And you're still desperately trying to get  
20 out of Level 6?

21 A. The situation, yeah.

22 Q. Right. And you had informed him about  
23 what was going on to your knowledge?

24 A. Yes.

25 Q. And you said, "Knowing what I told you,

1 ain't nothing changed. Trust me, the plans are  
2 still in effect. I'm staying out of it. Hope they  
3 fail."

4 Is that what you told him?

5 A. That's right.

6 Q. But you also said, "Now, can you please  
7 talk to the district officer about maybe suspending  
8 sanctions and giving me a chance?"

9 A. Yes.

10 Q. Because you were over it.

11 A. Yeah, I was getting written up left and  
12 right.

13 Q. Now, when this indictment came down on  
14 December 3, 2015, you were pulled in to speak with  
15 the arresting agents; correct?

16 A. That's right.

17 Q. And you told them at that point, you said:  
18 "I don't know what's going on"; correct?

19 A. That's correct.

20 Q. But soon thereafter, in mid-December, you  
21 said, "Wait a second, this is my opportunity"?

22 A. Yes.

23 Q. And you met with the officers; right?

24 A. Um-hum.

25 Q. You met with the FBI, didn't you?

1 A. Yes.

2 Q. And they were really curious about what we  
3 were just talking about, this Gregg Marcantel  
4 conspiracy; correct?

5 A. That's right.

6 Q. And you told them -- well, you told them  
7 you only understood there was a conspiracy against  
8 Dwayne Santistevan.

9 A. That's right.

10 Q. You didn't mention Gregg Marcantel at all.

11 A. Right.

12 Q. And in fact, you told them that even with  
13 Dwayne Santistevan, the only way that came up is  
14 that you were approached by Eric Duran.

15 A. Right.

16 Q. And that Eric Duran approached you saying,  
17 "Hey, we got to kill Dwayne Santistevan."

18 A. Yeah. Well, he was there in 2013, so I  
19 knew he knew what Pup had talked about.

20 Q. We're going to talk about that in a  
21 minute. But you told the FBI, the folks that work  
22 for the United States prosecutors, that you didn't  
23 approach Eric Duran about it; he came to you and  
24 said, "We've got to hit Dwayne Santistevan."

25 A. Yes.

1 Q. Okay, and in fact, when you talked to the  
2 FBI on December 17, 2017, you didn't mention  
3 anything about this conversation with you, Mr. Baca,  
4 and Eric Duran, did you?

5 A. I think I did.

6 MR. LOWRY: Okay. May I approach, Your  
7 Honor?

8 THE COURT: You may.

9 BY MR. LOWRY:

10 Q. Take a moment to review that and let us  
11 know when you're finished reviewing it.

12 A. All right.

13 Q. Did that report say anything about a  
14 meeting in 2013 between you, Mr. Anthony Ray Baca,  
15 and Eric Duran?

16 A. No.

17 MR. LOWRY: May I approach, Your Honor?

18 THE COURT: You may.

19 BY MR. LOWRY:

20 Q. Now, when you met with the FBI, you knew  
21 how important that meeting was, didn't you?

22 A. Yes.

23 Q. Because you knew that that was your chance  
24 to get out of the restrictive conditions of  
25 confinement you were facing?

1 A. Well, no, I was already off of that  
2 restriction at that time. We were moved to --

3 Q. The federal marshal hold?

4 A. So I was out of it.

5 Q. But they said, "Hey, if you want to work  
6 with us, we can even make your life better"?

7 A. No, they didn't say that.

8 Q. They didn't?

9 A. No.

10 Q. But my point is: You didn't mention that  
11 meeting on December 17, 2015?

12 A. Well, I'm pretty sure I did.

13 Q. So you think they just didn't write it  
14 down?

15 A. I don't know, but I talked about it.

16 Q. Okay. There is no documentation of it,  
17 and you just looked at it.

18 A. That's right.

19 Q. Do you think the FBI -- they're in the  
20 business of solving crimes; right?

21 A. That's right.

22 Q. And they specifically asked you about the  
23 Marcantel conspiracy?

24 A. Yes.

25 Q. And there is nothing in that report that

1 mentions that meeting?

2 A. It appears not.

3 Q. And in fact, the FBI was so curious to  
4 understand what you understood, they met with you  
5 again in January; isn't that right?

6 A. That's right.

7 Q. And they met with you on approximately  
8 January 21, 2016?

9 A. Yes.

10 Q. And yet again, you sat with them for a  
11 period of time; right?

12 A. Um-hum.

13 Q. Hours?

14 A. Yes.

15 Q. And you sat with them in this district  
16 court house right here that we're sitting in today?

17 A. Um-hum.

18 Q. And it was -- Special Agent Bryan Acee was  
19 at that meeting?

20 A. Yes.

21 Q. And Special Agent Joseph Sainato?

22 A. I'm not too sure who he is.

23 Q. But there were at least three FBI agents?  
24 Thomas Neale was there?

25 A. Yeah, there was a bunch of people in

1 there.

2 Q. And there was a task force officer from  
3 the Department of Corrections, Anthony Medrano?

4 A. Yes.

5 Q. And Ms. Maria Armijo was there?

6 A. Yes.

7 Q. And Randy Castellano, who did your direct  
8 examination, was there?

9 A. Yes.

10 Q. And even your attorney Marcia Milner was  
11 there?

12 A. Yes.

13 Q. And you even had your defense investigator  
14 there?

15 A. Yes.

16 Q. And yet again at this other meeting with  
17 all of those people present, all right, they wanted  
18 to know what you knew.

19 A. Right.

20 Q. You didn't say anything about this  
21 meeting, this purported meeting, between you, Eric  
22 Duran, and my client, Mr. Anthony Ray Baca?

23 A. Right.

24 Q. So you had another follow-up meeting with  
25 the FBI in October?

1 A. Yes.

2 Q. By this time, your conditions of  
3 confinement got better, didn't they?

4 A. Yes.

5 Q. You'd been signed up as a confidential  
6 source in early spring, just after that January  
7 meeting?

8 A. Yes.

9 Q. You got extra phone call privileges;  
10 right?

11 A. Got the same that we always get.

12 Q. Oh, you didn't get extra phone calls?

13 A. No, they were the same as anyone that's on  
14 Level 3.

15 Q. But the United States Government was  
16 giving you money so you could make more calls?

17 A. Yes.

18 Q. And they gave you money so you could buy  
19 commissary?

20 A. Yes.

21 Q. And they gave you money so you could buy  
22 stationery to write your attorneys and family  
23 members?

24 A. Yes.

25 Q. So they made sure that your life improved?



1 A. Yes.

2 Q. And in exchange for all the benefits they  
3 were giving you and improving your life, they came  
4 to visit you again in October -- pardon me, they  
5 came to visit you in September -- September 15 of  
6 2016?

7 A. Yes.

8 Q. And again, they wanted to talk to you  
9 about the SNM?

10 A. Yes.

11 Q. And they wanted to know everything you  
12 knew about all the activities that they wanted to  
13 charge people with, they had charged people with;  
14 right?

15 A. Um-hum.

16 Q. Because you were charged --

17 A. Yes.

18 Q. -- and they charged you with the  
19 conspiracy to kill Gregg Marcantel?

20 A. Yes.

21 Q. And the conspiracy to kill Dwayne  
22 Santistevan?

23 A. Yes.

24 Q. And yet, again, on September 15 of 2016,  
25 you didn't mention anything about this meeting that

1 you claim happened in the rec yard in 2013 between  
2 you, Eric Duran, and my client, Anthony Ray Baca?

3 A. Yes.

4 Q. Now, as part of being a confidential human  
5 source, you actually signed a contract with the FBI;  
6 correct?

7 A. Yes.

8 Q. And part of that, you know, that's how you  
9 got the monthly benefits you were receiving?

10 A. Yes.

11 Q. And you promised them you'd be honest with  
12 them.

13 A. Yes.

14 Q. And you're aware that you can lie by  
15 omitting information?

16 A. I'm aware of what?

17 Q. Are you aware that you can lie to somebody  
18 by not telling them everything you really know?

19 A. Yes.

20 Q. And the FBI came back to see you in  
21 December 2016, did they not?

22 A. Yes.

23 Q. And again, you didn't tell them anything  
24 about this meeting on the rec yard in the Southern  
25 Correctional Facility in 2013?

1 A. I'm sure I said it.

2 Q. You don't think the FBI is in the habit of  
3 documenting important information?

4 A. Yes. But they're also -- I found some  
5 mistakes there that I pointed out to them, too.

6 Q. That brings up an important point. Before  
7 the FBI filed their reports, they gave you the  
8 opportunity to review them, didn't they?

9 A. Yes.

10 Q. And you got a chance to go through each  
11 report and correct it?

12 A. Yeah.

13 Q. And you never said, "Hey, you're missing  
14 the information about this meeting that happened in  
15 the Southern Correctional Facility in 2013, between  
16 me, Eric Duran, and Anthony Ray Baca," did you?

17 A. No. But I pointed out to them that that  
18 information was correct.

19 Q. Right. But you never told them in any of  
20 these reports that they asked you to correct, "Hey,  
21 you forgot about this meeting between me, Eric  
22 Duran, and Anthony Ray Baca in 2013"?

23 A. No.

24 Q. It wasn't until you were on the stand  
25 today that we heard for the first time about this

1 meeting between you, Eric Duran, and Anthony Ray  
2 Baca in 2013?

3 A. Yes.

4 Q. Now, you testified on direct about the  
5 benefits you received as a result of your  
6 cooperation?

7 A. Yes.

8 Q. And despite -- the monthly stipend you got  
9 to make phone calls; right?

10 A. Yes.

11 Q. You got a monthly stipend to buy  
12 commissary for yourself, you had a monthly stipend  
13 to write letters home, and you still misbehaved  
14 while you were incarcerated?

15 A. Yes.

16 Q. And you used drugs?

17 A. Yes.

18 Q. And you were provided with the tablet with  
19 all of the discovery in this case; correct?

20 A. Yes.

21 Q. And you had every opportunity to look at  
22 all of the discovery that everybody had?

23 A. Right.

24 Q. And by that time you understood you'd been  
25 recorded by Eric Duran?

1 A. Um-hum.

2 Q. And by that time, you knew, based on the  
3 tablet, that you'd been recorded by Eric Duran when  
4 you lived with him in March of 2015?

5 A. Yes.

6 Q. And you knew that he was recording you and  
7 Robert?

8 A. Yes.

9 Q. And you'd heard all of those 18 recordings  
10 between the three of you?

11 A. I didn't hear all of them.

12 Q. You didn't?

13 A. No, I didn't sit there listening to all of  
14 that stuff, because I already knew what happened.

15 Q. Right. But you got to listen to all the  
16 other evidence in the case; right?

17 A. If I wanted to. But a lot of times I  
18 didn't really pay attention. It was boring, to be  
19 honest with you.

20 Q. Well, and you were getting the benefits;  
21 you'd already decided to cooperate?

22 A. Right.

23 Q. And in fact, you entered your plea  
24 agreement in the fall of 2016?

25 A. Yes.

1 Q. So at that point, you lost interest in the  
2 information on the tablet?

3 A. Yes.

4 Q. Okay. And you said, "Well, I can put this  
5 tablet to better uses; I'll just reset the tablet  
6 and use it for my Facebook messaging"?

7 A. Well, the way you word it like that is  
8 like I planned that. It just wasn't planned that  
9 way. It just happened that way, yes.

10 Q. Oh, the tablet reset itself?

11 A. No, I'm saying that I did the -- I reset  
12 the table, but I didn't know nothing about Facebook  
13 or Wi-Fi or nothing at the beginning. It took a  
14 while before that happened.

15 Q. So you taught yourself how to use Facebook  
16 with the tablet that the Government gave you to  
17 review the evidence in the case?

18 A. Yes.

19 Q. And you used that Facebook page you  
20 created?

21 A. Right.

22 Q. And you didn't create it by accident, did  
23 you?

24 A. No, I had help. I mean, I've been in  
25 prison 20 years.

1 Q. And you were mentored and tutored; right?

2 A. Yes.

3 Q. So you could communicate with all of your  
4 family members?

5 A. With whoever was on Facebook, yes.

6 Q. Anybody?

7 A. Yes.

8 Q. And that was a benefit you'd never had  
9 before?

10 A. Right; never had that in my life.

11 Q. And you also used it to download video  
12 games?

13 A. Yes.

14 Q. So you could pass the time more easily?

15 A. Yes.

16 Q. And you also used it, as you said -- for a  
17 while you couldn't access the internet directly, so  
18 you lent your tablet to Jerry Armenta?

19 A. And to Jerry Montoya, both Jerrys, because  
20 they both used it at one time.

21 Q. So they knew the good porn sites; right?

22 A. Yes.

23 Q. So they could get you to the right porn  
24 sites?

25 A. That's right.

1 Q. Did you ever direct them, "Hey, I'm  
2 interested in this"?

3 A. No, I pretty much just said: "Do  
4 whatever, help me out." It's like a thing, because  
5 I didn't know how to use the internet for a long  
6 time. It was hard for me to get that adjustment.  
7 But Kreaper is the one that taught me how to do that  
8 eventually.

9 Q. So they taught you how to misuse your  
10 tablet?

11 A. Basically, yeah.

12 Q. And they taught you how to find  
13 pornography, which is not appropriate to have in the  
14 Sandoval facility?

15 A. That's right.

16 Q. Now, you're also aware, because you were  
17 using Suboxone, that they were using this to  
18 communicate to other people to get drugs inside the  
19 facility?

20 A. Yes.

21 Q. And you're aware that drugs are still  
22 flowing in?

23 A. Yes. At some point, yes.

24 Q. But you didn't tell anybody at this table  
25 or the FBI agents, "Hey, you should get these guys



1 to cut this out"?

2 A. No, sir.

3 Q. And in fact, your most recent housing  
4 assignment -- we won't talk about where -- you were  
5 housed with Jerry Montoya, Richard Gallegos, and  
6 Eugene Martinez; correct?

7 A. Correct.

8 Q. And you were aware that Jerry Montoya and  
9 Richard Gallegos and others were not behaving well  
10 at all inside the facility?

11 A. Yes.

12 Q. And in fact, Jerry Montoya struck up a  
13 romantic affair with one of the correctional guards?

14 A. Yes.

15 Q. And that's another technique people do,  
16 you know, to try to strike up relationships to get  
17 people to courier in drugs for them?

18 A. That's correct.

19 Q. And you turned basically a blind eye to  
20 that?

21 A. I did.

22 Q. And you knew that Mr. Montoya was getting  
23 heroin?

24 A. Heroin, no. I didn't know about heroin,  
25 but I know about other drugs.

1 Q. Okay. What other drugs were you aware of  
2 that he brought in?

3 A. Suboxones, meth, pills; a bunch of pills.

4 Q. And he shared his Suboxone with you there?

5 A. Yes.

6 Q. And you were aware, as part of this  
7 relationship with the correctional officer there,  
8 that he'd actually smuggled in a cellphone?

9 A. Yes, that was actually before the drugs,  
10 he got the cellphone.

11 Q. And I mean, did he let you have cellphone  
12 privileges?

13 A. No. He just let me take pictures. I took  
14 pictures, send them to family members. At one point  
15 I talked to my son.

16 Q. But you knew throughout the course of  
17 2016 -- or you should have known -- that all the  
18 discovery in this case was confidential?

19 A. Yes.

20 Q. And you knew that Mr. Montoya was letting  
21 other people, correctional officers, videotape the  
22 videotapes in this case?

23 A. That's correct.

24 Q. And those correctional officers had a  
25 sordid interest to watch the Molina homicide video,

1 and Jerry Montoya let those correctional officers  
2 record that, didn't they?

3 A. Yes.

4 Q. And you didn't say anything to the folks  
5 at this table?

6 A. I told my lawyer to notify Maria about  
7 what was going on in that facility, yes.

8 Q. You did that after.

9 A. When it started happening, yes, I did  
10 that. I mostly asked what needed to be done, if we  
11 knew we were going to get the CO that was -- because  
12 a similar thing happened in Sandoval, where we were  
13 going to get one of the COs that were not, you  
14 know -- that were bringing in drugs.

15 Q. Okay. Let me back up and understand  
16 this -- make sure I understand this correctly,  
17 though. You had Bryan Acee's cellphone number?

18 A. I don't know if it was a cell number, but  
19 I had his number, yes.

20 Q. And the Government has paid you in a  
21 contract that you signed with the FBI?

22 A. Yes.

23 Q. Paid you money so you could use the  
24 telephone?

25 A. Yes. It's an open line. You don't talk

1 about stuff like that on one of them open lines.

2 Q. Oh, you're worried about reporting crime  
3 on an open line?

4 A. Yes.

5 Q. Why? Because a law enforcement officer  
6 might found out about it?

7 A. I'm worried about talking to an FBI agent  
8 on a regular line like that, and it's a recorded  
9 call. When I talk to my lawyer, I tell my lawyer --  
10 I relay the message to my lawyer, and she calls  
11 Maria.

12 Q. And if you talked to your lawyer about it,  
13 you talked on an open line?

14 A. No, I didn't.

15 Q. How would your lawyer know what you were  
16 talking about?

17 A. It was secure, the line. It was  
18 privileged phone calls to my daughter.

19 Q. But you could have called Agent Acee and  
20 said, "I need to talk to you immediately. Come  
21 here"?

22 A. I notified my lawyer and told her to do  
23 it.

24 Q. Nothing happened?

25 A. No.

1 Q. And it wasn't until you were aware that  
2 Jerry Montoya had been busted that you wrote a  
3 letter saying, "Hey, you guys should really get on  
4 top of this"?

5 A. No, the letter was actually written a  
6 couple weeks before. It was in an envelope, sealed  
7 envelope, going to my lawyer, and they shouldn't  
8 have opened it. They shook us down and found that  
9 letter. That's how it happened. And they could  
10 verify that.

11 Q. Right. So let's explore this a little bit  
12 because I'm a little confused. You said you wrote a  
13 sealed letter?

14 A. Yes.

15 Q. Before Mr. Montoya was busted in this  
16 after?

17 A. Exactly, yes. Before he got busted, I had  
18 already wrote a journal, it was called a journal. I  
19 wrote it, and my lawyer knew about it, and it was  
20 going to be sent to her. But it wasn't -- I didn't  
21 send it out right away, and when he got busted a  
22 week later, or something, they came and shook  
23 down -- when he left, they shook down, and that's  
24 when they found that letter and the phone on the  
25 same day.

1 Q. Sure, yeah, because they were looking for  
2 the phone?

3 A. Yes.

4 Q. Now, if what you're saying to this jury is  
5 true, how did your letter in the sealed envelope  
6 describe Jerry Montoya getting busted two weeks in  
7 the future?

8 A. Because that's -- I mean, well, yeah,  
9 you're right. I'm sorry. I wrote it right after he  
10 got busted, and put on there. I started writing it  
11 before, and then when he got busted, that's when I  
12 ended it, pretty much, because I figured that Bryan  
13 Acee and them didn't want to mess with it right now,  
14 or couldn't; they were too busy.

15 Q. Okay. So let me make sure this jury  
16 understands this correctly. You didn't write a  
17 sealed letter two weeks before Mr. Montoya was  
18 busted.

19 A. I wrote a letter -- started writing it,  
20 ended it when he got busted, and I sealed it to send  
21 it to my lawyer. It was in a sealed envelope. And  
22 when they shook down, they opened that envelope,  
23 which they weren't supposed to, and they found that  
24 letter, and that's how it got out.

25 Q. That letter that you had in your

1 possession?

2 A. In my possession?

3 Q. That letter that went nowhere?

4 A. It went nowhere, yes. It was supposed to  
5 go to my lawyer.

6 Q. Speaking of which, it's -- this letter,  
7 the letter that went nowhere, sounds a little bit  
8 like this Javier Molina paperwork that you've talked  
9 about today on direct examination. Do you remember  
10 that?

11 A. Yes.

12 Q. You said somebody sent you Molina  
13 paperwork in the mail?

14 A. Yes.

15 Q. Would it surprise you to know that that's  
16 the first time I ever heard about it?

17 A. First time you ever heard about what?

18 Q. You getting Molina paperwork in the mail.

19 A. Yes, it would surprise me.

20 Q. Okay. But -- we can do this again. When  
21 you met with the FBI on December 17, 2015, you  
22 didn't mention anything about getting Molina  
23 paperwork in the legal mail, did you?

24 A. Yes, I did.

25 Q. You did?

1 A. Yes.

2 MR. LOWRY: May I approach, Your Honor?

3 Q. Would you please point out to the jury  
4 where you talked to the FBI about getting Javier  
5 Molina's legal paperwork in your mail?

6 A. It doesn't say on here, but I know I said  
7 it.

8 MR. LOWRY: May I approach, Your Honor?

9 THE COURT: You may.

10 BY MR. LOWRY:

11 Q. And again, the FBI gave you a chance to  
12 review this, right, and make edits to it?

13 A. Yes.

14 Q. And you didn't say, "Hey, wait a second,  
15 you forgot to put down what I told you about" --  
16 that didn't happen. You didn't provide them with  
17 those edits, never got in that report. The same  
18 thing with your report on January 21, 2016. Would  
19 you like to see it?

20 A. Would I like to see the report?

21 Q. Sure.

22 A. Yes.

23 MR. LOWRY: May I approach, Your Honor?

24 THE COURT: You may.

25 A. Yeah.



1 BY MR. LOWRY:

2 Q. Is it there?

3 A. No.

4 Q. And again, you got this report to edit;  
5 correct?

6 A. Correct.

7 Q. And you didn't say, "Hey, wait, you forgot  
8 that little important part"?

9 A. No.

10 Q. But it's important enough for you to  
11 testify about it on direct examination, wasn't it?

12 A. Yes.

13 MR. LOWRY: May I approach again, Your  
14 Honor?

15 THE COURT: You may.

16 BY MR. LOWRY:

17 Q. And when you met with the FBI on September  
18 15, 2016, did you say anything about getting the  
19 Molina paperwork in the mail?

20 A. No.

21 Q. And you had an opportunity to edit that  
22 report, didn't you?

23 A. Yeah.

24 Q. And you didn't say, "Hey, there is really  
25 critical information you guys need to know, but it's

1 not in this report"?

2 A. No.

3 Q. Same thing for December 2, 2016, when you  
4 were visited by the FBI?

5 A. Yes.

6 Q. You didn't tell them anything about it, or  
7 they just forgot to edit their report for them and  
8 say, "You're still missing critical information you  
9 need to know to solve this case"?

10 A. No.

11 Q. And you'd seen every report that the FBI  
12 filed?

13 A. Um-hum.

14 Q. And you didn't correct it one time?

15 A. No. I figured it was in there already,  
16 because the only time I got to review it was just  
17 recently, and I was looking at other stuff.

18 Q. What other stuff were you looking at?

19 A. Other stuff that I said.

20 Q. Pardon me?

21 A. Things that I said in there that -- what I  
22 couldn't remember.

23 Q. You were looking at other material within  
24 those reports?

25 A. Yes.

1 Q. Now, Mr. Castellano talked to you a little  
2 bit about your criminal history, and I want to back  
3 up and revisit some of that; is that okay?

4 A. All right.

5 Q. You talked about your relationship. You  
6 called her Cheryl, but her name is Cheryl Tiller,  
7 right?

8 A. Yes.

9 Q. And you met Cheryl Tiller when you got  
10 paroled?

11 A. Right.

12 Q. And you got paroled in 1998?

13 A. Yes.

14 Q. And at that time you were selling a lot of  
15 drugs?

16 A. Yes.

17 Q. And you were selling a lot of crack  
18 cocaine?

19 A. Right.

20 Q. And you met Ms. Tiller?

21 A. Yes.

22 Q. She was a sergeant with BCSO or APD?

23 A. APD.

24 Q. APD. And she actually introduced you to  
25 even more sources for drugs; correct?

1 A. That's correct.

2 Q. And you took advantage of those sources?

3 A. Yes.

4 Q. To sell drugs?

5 A. Yes.

6 Q. And you talked about living the good life?

7 A. That's correct.

8 Q. And you got up and you would drink every  
9 day and you would use cocaine or use whatever you  
10 had, and you still had a job that you kept, right,  
11 to make probation and parole happy?

12 A. Yes.

13 Q. But I mean, you were living pretty fast  
14 and loose?

15 A. Right.

16 Q. You were stealing cars?

17 A. Yes.

18 Q. And she turned a blind eye to all of that?

19 A. Yes.

20 Q. And the relationship went on for a bit of  
21 time; correct?

22 A. Yes.

23 Q. And she was your lover?

24 A. Yes.

25 Q. And you shot her in the face?

1 A. Yes.

2 Q. Three times?

3 A. I shot three times. I don't know how many  
4 times I hit her.

5 Q. Pretty close range?

6 A. Yes.

7 Q. Now, she wasn't armed?

8 A. No.

9 Q. You had a gun?

10 A. Yes. Hers.

11 Q. You were concerned, according to your  
12 direct examination testimony, that you felt like  
13 something was going on and you were being set up?

14 A. That's right.

15 Q. So you -- let's get this right. So you  
16 were at your apartment; right?

17 A. Yes.

18 Q. She says, "Leave your ID here." You  
19 thought that was weird.

20 A. Yes.

21 Q. And you still -- you ignored that, and you  
22 jump in the car with her, the truck?

23 A. Right.

24 Q. And you drove out to the Petroglyph  
25 monuments?

1 A. Yes.

2 Q. And you guys were going to go parking, as  
3 far as you knew?

4 A. Right.

5 MS. JACKS: Sorry. We're having trouble  
6 hearing the answers.

7 THE COURT: Would you either pull your  
8 chair up, or see if you can pull the microphone up?  
9 There you go.

10 BY MR. LOWRY:

11 Q. And you were still using drugs at that  
12 time?

13 A. Yes.

14 Q. And you were getting a little paranoid?

15 A. Well, that night I wasn't using drugs, no.  
16 I was drinking only.

17 Q. You were drinking only?

18 A. It was a voting night, so they didn't  
19 start selling liquor till midnight, or past 7:00. I  
20 think it was past 7:00, or something like that. I  
21 can't remember. But we didn't get to buy alcohol  
22 till late at night.

23 Q. Okay. So you remember writing your little  
24 history of the SNM?

25 A. Um-hum.

1 Q. Do you remember writing, "I barely started  
2 drinking and was hardly buzzed"?

3 A. Yes.

4 Q. So that's -- but when I was talking about  
5 being paranoid, I wasn't talking about being  
6 paranoid from the drug use. You just thought the  
7 whole situation was strange.

8 A. Yeah, I started thinking that I was being  
9 set up.

10 Q. Now, you went to Petroglyph National  
11 Monument, you parked the car, you give her a hug;  
12 right?

13 A. Um-hum.

14 Q. You reach around her while you're hugging  
15 her and you unholster her pistol.

16 A. Right.

17 Q. And you put it in your waistband or --

18 A. Yeah, in the back, yes.

19 Q. And you guys grabbed a couple of beers,  
20 grabbed a couple of Coronas; right?

21 A. Yes.

22 Q. And got out of the car just to hang out?

23 A. Right.

24 Q. It's about midnight, just to relax?

25 A. Exactly.

1 Q. But your feelers are going through the  
2 roof?

3 A. Um-hum. Yes.

4 Q. And you hear a car in the distance; right?

5 A. Well, I seen the headlights. I didn't  
6 really hear it. I just seen the headlights. And  
7 then they turned off.

8 Q. And that made you even more nervous?

9 A. Right.

10 Q. And at that point, you basically point the  
11 gun at her?

12 A. I didn't point it at her right away. She  
13 came, asked me for it a couple of times, I told her,  
14 "No, I'm not going to give it to you."

15 And then she tried to get it from me and  
16 that's when I pointed it at her.

17 Q. It was her gun?

18 A. It was her gun, yes.

19 Q. And you fire a shot in the air just to  
20 scare her?

21 A. Yes.

22 Q. But you don't think she was scared by  
23 having a gun pointed at her?

24 A. The only thing she was worried about is  
25 cleaning it.



1 Q. You don't think she was worried about you  
2 pointing a gun at her?

3 A. Well, I couldn't say what she was worried  
4 about. But at that point -- but I know when I shot  
5 in the air, the only thing she was saying is, "Now  
6 I'm going to have to clean that."

7 Q. Okay. So she was worried that you had  
8 soiled her firearm?

9 A. Yes.

10 Q. She didn't sound like she was worried that  
11 something else was going to happen, other than you  
12 guys having a couple of beers?

13 A. She seemed at edge about something. I  
14 don't know if it was because of me holding the gun,  
15 or what else, but it was making me paranoid.

16 Q. That she was nervous because you had a gun  
17 pointed at her, and that made you nervous?

18 A. Like I said, I didn't have it pointed at  
19 her until later on, when she was about to try to get  
20 it from me.

21 Q. Was she -- according to you, she said that  
22 you'd better pull the trigger because she will make  
23 sure that you were dealt with?

24 A. Yes.

25 Q. You didn't know exactly what she meant,

1 did you?

2 A. No.

3 Q. I mean, she was a law enforcement officer.

4 A. And she did tell me that she killed her  
5 ex-boyfriend. I thought she was just bullshitting.

6 Q. Right.

7 A. But she wasn't.

8 Q. But you had her unarmed in a remote place?

9 A. Right.

10 Q. There is nothing -- I want to make sure I  
11 understand this -- nothing to prevent you from  
12 getting in that truck and driving away?

13 A. That's correct.

14 Q. But you shot her in the face?

15 A. Yes.

16 Q. And nobody figured out for three years?

17 A. For three years, no.

18 Q. Now, for that, I think you told the jury  
19 you got life in prison plus, what, six years on  
20 that?

21 A. Six years, yeah.

22 Q. All to run consecutive, so the six years  
23 comes after you serve your life sentence?

24 A. That's correct.

25 Q. So the conditions of confinement in the

1 Department of Corrections -- that was going to go  
2 for a long time, wasn't it?

3 A. I'm not too sure how long it was going to  
4 be, but it was bad when it was.

5 Q. So you were on your sentence for life plus  
6 six?

7 A. That's right.

8 Q. That's a long time, isn't it?

9 A. Yes.

10 THE COURT: Mr. Lowry, would this be a  
11 good time for us to take our lunch break?

12 MR. LOWRY: Sure, Your Honor.

13 THE COURT: We'll be in recess for about  
14 an hour. All rise.

15 (The jury left the courtroom.)

16 THE COURT: The Marshal Service have  
17 opened an investigation and have spoken with Ramona  
18 Becker, juror number 16. I'll keep you posted if I  
19 learn anything.

20 MS. JACKS: Your Honor, I didn't bring  
21 this up earlier, but perhaps she should be advised  
22 not to speak about the situation with other jurors.

23 THE COURT: Okay. I'll have Ms.  
24 Standridge speak to her about that. Is that all  
25 right?

1 MS. JACKS: That's fine.

2 MR. VILLA: Your Honor, I imagine they'll  
3 do this, but I assume they're going to preserve the  
4 post or the message, whatever she received.

5 THE COURT: Well, I don't know. I'll find  
6 out what they're doing and I'll keep you posted on  
7 it.

8 MR. VILLA: Maybe we can get a copy of it,  
9 you know, attorneys eyes only. Because I think that  
10 might inform what request we make of the Court.

11 THE COURT: Well, if y'all see Mickendrow,  
12 you can speak to him about that. I don't think he's  
13 conducting the investigation. But I'll talk to Ms.  
14 Standridge.

15 All right. See y'all in about an hour.

16 MR. LOWRY: Your Honor, could you admonish  
17 the witness quickly?

18 THE COURT: Mr. Martinez, don't -- you're  
19 on the stand, so don't speak to anybody about your  
20 testimony.

21 THE WITNESS: All right.

22 (The Court stood in recess.)

23 THE COURT: Let's go on the record.

24 Deputy Mickendrow can give us a briefing, but I  
25 don't think he knows any more than what we just gave

1 you before lunch. He does have a picture of the  
2 screen, but he can't release it to us until he works  
3 it up through his command. So we'll see what  
4 response he gets, but -- and Ms. Standridge did talk  
5 to Ms. Becker, and Becker understood that she  
6 shouldn't talk to the jurors about it. And she said  
7 she didn't want anybody else to be alarmed about it.  
8 So that should be okay.

9 All right. Is there anything else we need  
10 to discuss while we're waiting? Mr. Villa?

11 MR. VILLA: Your Honor, I asked Deputy  
12 Mickendrow about it, and he said a couple of things  
13 I just wanted to add -- I think he's here, if I'm  
14 wrong -- is that the investigation is closed; they  
15 didn't think it was anything suspect, that it was  
16 inadvertent and not related. And he had indicated  
17 to me that, in order to get -- for us to get the  
18 picture, we might have to go through FOIA or some  
19 other channels. So I guess I would ask the Court to  
20 order it, because that may expedite things, and then  
21 he can go through his appropriate channels  
22 indicating that there is a court order.

23 THE COURT: Well, I think you were going  
24 to -- you were just going to check with your  
25 superiors to see if you could release it. Isn't

1 that what you were going to do, Deputy Mickendrow?

2 DEPUTY MICKENDROW: Judge, so typically,  
3 we don't release any internal reports. And the  
4 picture is a part of the internal report. If the  
5 Court requests the report, based on the fact that  
6 it's part of the court proceedings, I could put it  
7 up through our Office of General Counsel. But  
8 typically, the standard protocol is to request all  
9 of that information through a FOIA request.

10 THE COURT: Well, why don't you tell the  
11 counsel that the Court would like to have it for a  
12 picture of the court proceedings, since it involved  
13 a juror and, you know, we want to make sure that  
14 nobody is alarmed or fearful of it. So see if that  
15 works. If it doesn't work, then --

16 MR. MICKENDROW: Just to clarify, Judge,  
17 that's just the picture; not any of the attached  
18 reports; correct?

19 THE COURT: What are the attached reports?  
20 Just your reports?

21 MR. MICKENDROW: Yes, Judge. That would  
22 be our internal investigation as far as what we did,  
23 what procedures we took.

24 THE COURT: I think what they're wanting  
25 is a picture of the face page, so --

1 MR. MICKENDROW: A copy of that. I will  
2 put that up and see if we can't provide that to the  
3 Court.

4 THE COURT: See if we can get that.

5 All right. All rise. We're going to  
6 bring in the jury, and then I'll bring in the  
7 witness.

8 (The jury entered the courtroom.)

9 THE COURT: Well, sorry, I had you waiting  
10 back there a little bit longer than usual. Because  
11 I took breaks earlier, I messed up everybody's  
12 lunches, so it took a while to get everybody back  
13 together. So it's all my fault for taking a little  
14 bit earlier lunch break today. So I appreciate your  
15 patience.

16 We'll wait -- I brought y'all in before I  
17 brought in Mr. Martinez, so we'll just wait here  
18 until Mr. Martinez gets back.

19 All right. Mr. Martinez, I'll remind you  
20 that you're still under oath.

21 THE WITNESS: All right.

22 THE COURT: Mr. Lowry, if you wish to  
23 continue your cross-examination of Mr. Martinez, you  
24 may do so at this time.

25 MR. LOWRY: Thank you, Your Honor, I do.

1 THE COURT: Mr. Lowry.

2 BY MR. LOWRY:

3 Q. Good afternoon, Mr. Martinez.

4 A. Good afternoon.

5 Q. Mr. Martinez, when we left, we had just  
6 finished talking about your judgment and sentence in  
7 the Cheryl Tiller matter. And I believe you agreed  
8 with me you got a life sentence plus six years?

9 A. Yes.

10 Q. Now, when you were arrested for that  
11 murder, you were in the BCDC lockup; correct?

12 A. Yes.

13 Q. And is that where you were in the pod when  
14 they brought in Matthew Cavalier?

15 A. No, it wasn't in lockup. It was GP,  
16 general population. But first I was in lockup, and  
17 then they let me out.

18 (Ms. Fox-Young entered the courtroom.)

19 Q. Being arrested on that murder is what  
20 precipitated you being at the BCDC?

21 A. Yes.

22 Q. And you were also housed at the BCDC with  
23 other people that you knew?

24 A. Yes.

25 Q. And one of them would have been Gerald



1 Archuleta?

2 A. Yes.

3 Q. And Gerald Archuleta was known by the name  
4 Styx?

5 A. Yes.

6 Q. And you would have been there with which  
7 Silva? Was it Rabs?

8 A. Rabs.

9 Q. And his name was Paul Silva?

10 A. Samuel Silva.

11 Q. Samuel Silva. And was there anybody else  
12 affiliated with the SNM that was there?

13 A. Yes, Fuzz, Kelly Mercer, Francisco  
14 Villalobos, and that's all I remember.

15 Q. Was Kelly Mercer's brother, Johnny Mercer,  
16 there?

17 A. Yes. Yeah, he was there. But he wasn't  
18 SNM at the time, I don't believe.

19 Q. But you were all in the same pod?

20 A. Yes.

21 Q. And just so the jury is clear, a pod is a  
22 living unit, sort of a dormitory-style situation?

23 A. Yes.

24 Q. And when Mr. Cavalier walked into the pod,  
25 everybody knew that that was trouble?

1 A. Yes.

2 Q. And this sort of goes back to the comment  
3 I believe you made in your letter to Adam Vigil,  
4 although you were talking about the Department of  
5 Corrections?

6 A. Correct.

7 Q. How prison administration officials do  
8 things that put people in jeopardy?

9 A. Yes.

10 Q. And you guys knew this is not a good  
11 situation?

12 A. Right.

13 Q. Now, you worked with Gerald Archuleta and  
14 Silva to murder Mr. Cavalier?

15 A. Yes.

16 Q. And this was the gentleman I believe you  
17 described in your earlier testimony as the guy that  
18 essentially saved your life?

19 A. That's correct.

20 Q. Now, I don't want to hop around too much,  
21 but you talked about the rules or rules of SNM.  
22 Matthew Cavalier broke the rules to save your life?

23 A. Yes.

24 Q. But you didn't think anything of it; you  
25 didn't care to break the rules to save his life?

1           A.     Well, to say I didn't think about it would  
2 be a lie. I thought about it. It just -- I didn't  
3 do it.

4           Q.     Okay. He could have thrown a cup of ice  
5 at the guard or something, but --

6           A.     I could have told him the same thing that  
7 he told me, and I chose not to.

8           Q.     And in fact, there was a concerted effort  
9 to do just the opposite, to make him feel like he  
10 was safe and at home?

11          A.     That's correct.

12          Q.     And you guys said, "Hey, let's party," and  
13 you shared some heroin?

14          A.     No, we actually just smoked a cigarette.

15          Q.     You didn't do heroin earlier in the  
16 evening?

17          A.     No, sir.

18          Q.     Did Mr. Archuleta do heroin with him  
19 earlier in the evening?

20          A.     No. We were actually hungover from doing  
21 lots of heroin before, a week before. But at the  
22 time we weren't high.

23          Q.     But there was a plan to make him feel at  
24 ease around you guys?

25          A.     Yes.

1 Q. And did Mr. Archuleta make Mr. Cavalier  
2 feel like he had gotten a pass?

3 A. Yes.

4 Q. And that was to put him at ease?

5 A. Yes.

6 Q. That was actually to make him more  
7 vulnerable so you guys could attack him?

8 A. Right.

9 Q. Which happened.

10 A. Right.

11 Q. And you guys made it look, after he was  
12 killed, like he was asleep?

13 A. Yes.

14 Q. Like he was covered up in the blanket in  
15 bed?

16 A. Yes.

17 Q. And that effort to conceal his passing was  
18 so effective the prison guards never even found out  
19 about it?

20 A. That's right.

21 Q. Until somebody on God's Pod called a news  
22 station?

23 A. Right.

24 Q. And that news station called the jail  
25 officials and said, "Hey, you guys got a dead body

1 inside your jail."

2 A. Yes.

3 Q. Now, you testified on direct that you took  
4 a plea agreement in order to save or spare Mr.  
5 Silva?

6 A. Yes.

7 Q. Can we pull up Government's Exhibit 434?  
8 Can we go to Bates 8985?

9 Now, you said that you took a plea in this  
10 case. By the time you pled guilty for the Matthew  
11 Cavalier homicide, you'd already pled guilty for the  
12 Tiller homicide?

13 A. I got found guilty, yes.

14 Q. You were found guilty?

15 A. Yes.

16 Q. By a jury?

17 A. Yes.

18 Q. Did you testify in that case?

19 A. No, sir.

20 Q. But by the time you were in front of the  
21 Court on a plea offer in the Cavalier, is it fair to  
22 say that this was a really generous plea offer?

23 A. Yes.

24 Q. And so, in fact, if you look at page 2 of  
25 your plea offer, highlight the "Further ordered."

1 For this murder, the judge ran your sentence  
2 concurrently with the life sentence you were serving  
3 in the Tiller murder?

4 A. Yes.

5 Q. So as a practical reality, you did not get  
6 one extra day in jail for the murder of Matthew  
7 Cavalier, did you?

8 A. No, sir.

9 Q. It was a freebie?

10 A. Yes.

11 Q. So there was no reason not to take that  
12 plea agreement, was there?

13 A. No.

14 Q. Now, working with Gerald Archuleta killing  
15 Matthew Cavalier caused a bit of problems for Gerald  
16 Archuleta, didn't it?

17 A. What kind of problems?

18 Q. Well, they're twofold: One is, Mr.  
19 Archuleta encouraged you to take a plea, didn't he,  
20 early on?

21 A. Well, he wanted me to. But I didn't.

22 Q. And you didn't want to take a plea because  
23 you hadn't even seen the discovery; correct?

24 A. That's correct.

25 Q. And you were, like, "Wait a second. Until

1 I see the paperwork, I'm not doing anything"?

2 A. That's right.

3 Q. And they had at least one, if not more,  
4 meetings with all the defense attorneys to try to  
5 convince you to take a plea?

6 A. That's right.

7 Q. And you said, "Not going there"?

8 A. Yeah, right.

9 Q. And it wasn't until you finally got the  
10 paperwork that you decided to plea?

11 A. It wasn't until we were about to go to  
12 trial that I took the plea.

13 Q. Right. But you ultimately received the  
14 discovery, the paperwork, for that; right?

15 A. Yes.

16 Q. And that paperwork, when you read it, was  
17 a little disappointing, wasn't it?

18 A. Yes.

19 Q. And you learned at that time that Gerald  
20 Archuleta had snitched you out?

21 A. Right.

22 Q. Because he told the police, "Why are you  
23 looking at me? I'm not a cop killer."

24 A. That's right.

25 Q. And that's what's called a dry snitch;

1 right?

2 A. Yes.

3 Q. And a dry snitch is where: Wink, wink,  
4 nudge, nudge, your guy is over there?

5 A. Right.

6 Q. So he was talking about you?

7 A. Yes.

8 Q. And that didn't go over well, did it?

9 A. No.

10 Q. And frankly that violated the rules of the  
11 SNM?

12 A. Yes.

13 Q. And according to your direct testimony, if  
14 somebody snitches you out, you have an obligation to  
15 kill that person?

16 A. That's right.

17 Q. But you didn't kill Gerald Archuleta?

18 A. Never got close to each other after that,  
19 never.

20 Q. Because you were in prison?

21 A. I was in prison. He got out. Every time  
22 he came back to prison, he was on lockdown, so he  
23 would never be out after that.

24 Q. And it causes -- but that violated the  
25 spirit of the code, if you will?



1 A. Yes.

2 Q. Now, it also created a second host of  
3 problems, because if I understood that case  
4 correctly, Gerald Archuleta and the folks in  
5 there -- you guys quickly figured out that Kelly  
6 Mercer had turned state's evidence against you guys?

7 A. Yes.

8 Q. You testified that he went to an interview  
9 and never came back?

10 A. Right.

11 Q. And that raised a great deal of suspicion  
12 that was confirmed when you read the discovery?

13 A. That's right.

14 Q. So there was an effort put out to kill  
15 Kelly Mercer for that?

16 A. Yes.

17 Q. And that's where Mr. Archuleta tried to  
18 get in touch with Julian Romero to kill Kelly  
19 Mercer?

20 A. Yes.

21 Q. But Mr. Romero was having too much fun  
22 sleeping with Gerald Archuleta's wife to pull that  
23 off?

24 A. Yes.

25 Q. And that created a whole second bit of

1 problems for everyone?

2 A. Right.

3 Q. Now, how did that impact the SNM  
4 politically?

5 A. It brought a little bit of division with  
6 the followers of Gerald, who didn't know about his  
7 dry snitching against people that were on Julian's  
8 side, for instance, or Wild Bill. There was a bunch  
9 of division.

10 Q. Right. So for lack of a better way of  
11 saying it, it just kind of broke up?

12 A. It didn't really break up. There was this  
13 certain group of people that didn't agree with Styx,  
14 and some -- the ones that agreed with Styx didn't  
15 agree with Julian, and like that. But it wasn't  
16 broken up. We were still together.

17 Q. Right. I don't mean breaking up like the  
18 whole thing disintegrated. But there were subgroups  
19 within the umbrella of the SNM?

20 A. Yeah, there was basically disagreements.  
21 But when it all came down to it, the guy that  
22 disagreed with the other guy would still kill with  
23 each other, if we have to.

24 Q. Right, against the Los Carnales?

25 A. Or whoever.

1 Q. Against the Aryan Brotherhood?

2 A. Yes.

3 Q. Or against, what was it, the Supreme  
4 White --

5 A. Supreme White Power.

6 Q. Right, so Supreme White Power. So if  
7 there is an external threat, you guys would handle  
8 it?

9 A. Right.

10 Q. But within the political situation of the  
11 group, there were lots of different camps?

12 A. Yeah. There was disagreements, yeah.

13 Q. With people that just didn't really get  
14 along with each other, necessarily?

15 A. Right.

16 Q. And in fact, sometimes it was so bad they  
17 wanted to kill each other?

18 A. That's right.

19 Q. And sometimes they actually did kill each  
20 other.

21 A. Well, I wouldn't go there. I don't think  
22 nobody killed anyone for Styx. And when it came  
23 over Julian, but...

24 Q. You were aware that Frederico Munoz tried  
25 to shoot Julian Romero?

1 A. Yeah, but you were saying about murder,  
2 and I don't think anybody got murdered.

3 Q. Right. But he made a good-faith effort to  
4 kill him; just missed?

5 A. Right, yes.

6 Q. In that sense. You also testified on  
7 direct talking about political dissension and people  
8 not getting along, that when Mr. Baca came back to  
9 Southern, there were elections held?

10 A. Right.

11 Q. And the people in blue pod didn't want him  
12 around, didn't want him to be a leader?

13 A. That's right.

14 Q. And they didn't support him or go for him?

15 A. They didn't vote, period. They didn't  
16 want nothing to do with those voting.

17 Q. So they were just persona non grata?

18 A. Yes.

19 Q. And that's exactly why Mr. Baca ended up  
20 being kited out to Level 6?

21 A. Yes.

22 Q. While we're talking about SNM politics, if  
23 I understood your direct testimony correctly, you  
24 said that there was a conversation that you had with  
25 Mr. Baca and others about basically reorganizing the

1 SNM?

2 A. Yes.

3 Q. And you actually -- there was an effort  
4 made to sort of stop killing each other, stop  
5 rumors?

6 A. Yes.

7 Q. And sort of bring back the brotherhood of  
8 what it meant to be an organization?

9 A. Right.

10 Q. And that was something that was discussed?

11 A. Yes.

12 Q. And he wanted more solidarity amongst  
13 people that were part of SNM?

14 A. Yes.

15 Q. And that is sort of what you described  
16 when you described going to the Old Main for the  
17 first time, is it not?

18 A. Yeah.

19 Q. When you were there, you were a young  
20 kid -- pardon me -- but you were, what, 19?

21 A. 21.

22 Q. And you didn't really know what was going  
23 on?

24 A. Right.

25 Q. And as soon as you got there, this other

1 gang, the Los Carnales, I believe you said it was  
2 Mike --

3 A. Dallas.

4 Q. -- Dallas, wanted to kill you on the spot?

5 A. Yeah.

6 Q. And the folks aligned with SNM realized,  
7 "Here is a young guy who is in harm's way"; right?

8 A. Yes.

9 Q. And actually reached out to protect you?

10 A. Yes.

11 Q. And they did that?

12 A. Yes.

13 Q. And you weren't a member?

14 A. No.

15 Q. They just saw somebody who could get  
16 seriously hurt?

17 A. Pretty much, yes.

18 Q. And they saved your life?

19 A. Yes.

20 Q. Now, I just want to talk about the charges  
21 in this case real briefly, starting with -- well, we  
22 talked about the Julian Romero allegation. You're  
23 aware that Gerald Archuleta called that hit to have  
24 Julian Romero killed?

25 A. Yes.

1 Q. And Gerald Archuleta sincerely wanted him  
2 dead?

3 A. Yes.

4 Q. And that's what you know about that?

5 A. Right.

6 Q. Okay. Now, with regard to the Javier  
7 Molina case, you testified about getting this  
8 paperwork in the legal mail.

9 A. Yes.

10 Q. And if I understood you correctly, you  
11 felt like the paperwork was a bit like kryptonite;  
12 you didn't really want it around you?

13 A. Right.

14 Q. Why didn't you simply flush it down the  
15 toilet? I mean, it's right there.

16 A. Being in prison 20 years with stuff like  
17 that, I don't think like that. I mean, I should  
18 have, yeah, but I didn't.

19 Q. So it's just something that you think  
20 never crossed your mind?

21 A. No.

22 Q. Now, let's talk about the charge you pled  
23 guilty to, the Marcantel allegations. I believe I  
24 understood you on direct testimony that you had  
25 never talked to Mr. Baca about Mr. Marcantel ever.

1 A. Right.

2 Q. And if I understood you correctly, you  
3 learned about -- even the hit, you were approached  
4 by Eric Duran in early 2015 to kill Dwayne  
5 Santistevan.

6 A. Yes.

7 Q. And at the beginning, there wasn't even  
8 any mention of Mr. Marcantel.

9 A. No.

10 Q. And it was Eric Duran that brought up the  
11 whole idea of killing Mr. Marcantel to you.

12 A. Yes.

13 Q. And that wasn't something you thought of  
14 before.

15 A. No.

16 Q. And did he use the murder of the Secretary  
17 of Corrections in Colorado as an example of sort of  
18 the mythology or the reputation that could enhance  
19 the SNM if you guys pulled off that hit?

20 A. Well, that was actually coming from Pup.  
21 He said that he was in contact with Pup at the time.

22 Q. But you never talked to Pup.

23 A. No, I never talked to Pup.

24 Q. And as far as you know, you only know what  
25 Eric Duran told you; right?



1 A. Right.

2 Q. And you -- and Eric Duran told you that  
3 Mr. Baca wanted to kill Mr. Marcantel.

4 A. Yes.

5 Q. That's what you told this jury this  
6 morning.

7 A. Yes.

8 Q. And in fact -- can we bring up the Looney  
9 exhibit, Government's Exhibit 273? Bear with me for  
10 a second.

11 In this letter you talked with Mr.  
12 Castellano about on direct, you talked about a list.  
13 And Mr. Duran had told you about this hit list;  
14 correct?

15 A. Yes.

16 Q. And Mr. Duran -- you testified to this  
17 jury that the viejo spoke with you about this list;  
18 right?

19 A. Yes.

20 Q. And this is something that Eric Duran  
21 talked to you about?

22 A. Right.

23 Q. You never talked to Mr. Baca about this.

24 A. Right.

25 Q. And you testified on direct that Eric

1 Duran told you Anthony Baca wanted to add the  
2 Secretary of Corrections to this list.

3 A. Yes.

4 Q. And so Eric Duran convinced you that  
5 killing the Secretary of Corrections would be a  
6 great idea.

7 A. Yes.

8 Q. Okay. And he did that by using Pup's  
9 name?

10 A. Yes. Well, I believed him because he was  
11 out there where we -- we knew about his anger  
12 towards the administration. So I knew Pup trusted  
13 Crazo, so I believed him.

14 Q. You believed Crazo?

15 A. Right.

16 Q. But you had never talked to Anthony Baca  
17 about Mr. Marcantel at all?

18 A. No.

19 Q. And you trusted Crazo?

20 A. Yes.

21 Q. Now, you told this jury earlier on that  
22 you believed Mr. Baca wanted to kill the Secretary  
23 of Corrections because Mr. Baca understood that the  
24 Secretary called him a crybaby?

25 A. Yes.

1 Q. And that's something that had bothered  
2 you; right?

3 A. Yes, all of us.

4 Q. Right. Nobody believed it.

5 A. Believed what?

6 Q. Nobody believed that Mr. Baca was a  
7 crybaby.

8 A. Right.

9 Q. And everybody was offended when he  
10 disparaged Mr. Baca?

11 A. Yes.

12 Q. That it was disrespectful?

13 A. Yes.

14 Q. Uncalled for?

15 A. Yes.

16 Q. And beneath the dignity of the Secretary  
17 of Corrections to even say something that stupid?

18 A. Yes.

19 Q. Do you recall, from looking at the  
20 tablet -- you know many of those conversation were  
21 recorded with Mr. Duran.

22 A. Yes.

23 Q. Do you recall the conversation you had  
24 with Mr. Duran where you both discussed the fact  
25 that Mr. Baca never understood that the Secretary of

1 Corrections called him a crybaby?

2 A. I can't remember all those conversations.

3 Q. Because that conversation with director --  
4 well, the conversation with Secretary of Corrections  
5 Marcantel happened roughly within a week after the  
6 Molina murder; right?

7 A. Yeah.

8 Q. About March 12, 2014?

9 A. Yes.

10 Q. And when Secretary Marcantel addressed you  
11 in a room with all the SNM members, Eric Duran was  
12 in that room?

13 A. Yes.

14 Q. And he told you guys, "Hey, Baca shipped  
15 out crying"; right?

16 A. Yes.

17 Q. So Mr. Baca is gone. You hadn't talked to  
18 Mr. Baca?

19 A. No.

20 Q. And Eric Duran led you to believe that he  
21 had?

22 A. Yes.

23 MR. LOWRY: So, Your Honor, can we -- we'd  
24 like to move to play Defendants' Exhibit Y3.

25 MR. CASTELLANO: I'm not sure that one has

1 been admitted. I don't believe it has been.

2 MR. LOWRY: I'm going to move to admit it.

3 THE COURT: Is there going to be an  
4 objection to that?

5 MR. CASTELLANO: I don't know what it is,  
6 Your Honor. Your Honor, I have no objection to its  
7 admission.

8 THE COURT: All right. Anyone else have  
9 an objection?

10 Not hearing any objection, Defendants'  
11 Exhibit Y3 will be admitted into evidence.

12 (Defendants' Exhibit Y3 admitted.)

13 BY MR. LOWRY:

14 Q. Mr. Martinez, I want to set this up for  
15 you briefly. As you pointed out earlier, Mr. Duran  
16 was housed in a cell between Robert Martinez and  
17 yourself; correct?

18 A. Yes.

19 Q. And you were housed at Level 6 of the PNM  
20 North; correct?

21 A. Yes.

22 Q. And do you remember what pod it was?

23 A. X pod.

24 Q. X pod?

25 A. Yes.

1 Q. So this is a clip that was taken about  
2 March 27 of 2015.

3 MR. LOWRY: And Your Honor, I'm just going  
4 to place this transcript on the Elmo just to assist  
5 the jury, if I may.

6 THE COURT: You may.

7 BY MR. LOWRY:

8 Q. This is a transcript that was prepared by  
9 the United States. I don't know if this is going to  
10 work this way. Can we patch it directly through?

11 (Tape played.)

12 Q. Is that your voice talking about chess  
13 games?

14 A. Yes.

15 Q. So that was you and Crazo talking about  
16 Mr. Baca, not knowing at all that the Secretary of  
17 Corrections had called him a crybaby?

18 A. Yes.

19 Q. So your testimony that Mr. Duran told you  
20 that Anthony Baca wanted Marcantel added to the hit  
21 list because he called him a crybaby -- you both  
22 knew that that hadn't happened?

23 A. Right.

24 Q. So that couldn't be right, could it?

25 A. Well, not at that time.

1 Q. You'd already -- this is before you wrote  
2 the letter?

3 A. That recording is before I wrote the  
4 letter?

5 Q. Yes, sir.

6 A. Yeah, so, eventually he did find out.

7 Q. Well --

8 A. According to what Crazo told me.

9 Q. On the same day?

10 A. No. But eventually he did.

11 Q. Now, it was Mr. Duran's idea to draft the  
12 letters?

13 A. To draft them?

14 Q. Well, yeah. He said, "Hey" -- well, he  
15 approached you; right?

16 A. Yes.

17 Q. And said, "Let's kill Dwayne Santistevan"?

18 A. Yes.

19 Q. And then he approached you and said, "Hey,  
20 let's do something even bigger, badder, and better.  
21 Let's kill the Secretary of Corrections"?

22 A. Yes.

23 Q. His idea both times?

24 A. Yes.

25 Q. He used other people's names to convince

1 you it was a good idea?

2 A. Yes.

3 Q. He used other instances where other  
4 Secretaries of Correction had been killed to  
5 convince you it was a good idea?

6 A. Yeah.

7 Q. And he basically convinced you, "Hey,  
8 let's do this, it's a swell idea"; right?

9 A. Yes.

10 Q. And he said, "Hey, my girlfriend can  
11 smuggle the letters out"; right?

12 A. Yes.

13 Q. So you don't even need to write it in  
14 code; just write it in big block letters; right?

15 A. Yes.

16 Q. And you and Robert Martinez actually got  
17 in a bit of a disagreement about even that idea?

18 A. Yes.

19 Q. Because Robert said he'd gone to talk to  
20 the STIU guys; right?

21 A. Yes.

22 Q. And he said, "It would be fine with me if  
23 they carry you and the Secretary out in a pine box."

24 A. Right.

25 Q. Because Robert wanted to get out of the



1 severe conditions of confinement that you guys were  
2 living in?

3 A. He was trying to get out of state; that  
4 was his --

5 Q. Right, he wanted to be shipped out of  
6 state?

7 A. Yes.

8 Q. Where he'd be treated humanely?

9 A. Yes.

10 Q. So Robert was saying, "I'll preach it to  
11 the world. I don't care. My whole goal is just to  
12 get moved out of state."

13 A. Yes.

14 Q. But Eric Duran said, "Well, let's write  
15 these letters and try to be a little bit more  
16 clandestine about it and not broadcast it  
17 everywhere."

18 A. Yes.

19 Q. And he could help you keep it a secret,  
20 because he could courier the letters out of the  
21 prison without anybody knowing about it?

22 A. Right.

23 Q. And so he had you write this letter?

24 A. Yes.

25 Q. And he told you what to put in it?

1 A. No, he didn't tell me what to put in it.

2 Q. He told you about the letters?

3 A. Yeah, he told me about Arthur Chavez, and  
4 Arthur Chavez wrote me a letter himself.

5 Q. Right.

6 A. So --

7 Q. But it was his idea for the secretary?

8 A. Yes, yeah.

9 Q. And you went along with it?

10 A. Yeah.

11 Q. And so he said to you quite frequently,  
12 "Hey, let's send these letters out"?

13 A. Yes.

14 Q. "And you give them to me and I'll take  
15 care of it"?

16 A. Yes.

17 Q. And he actually said, "Don't even talk to  
18 other people about it"?

19 A. Yes.

20 Q. Would you agree with me that he came up  
21 with this idea -- I mean, you even told him, "Jeez."  
22 I mean, he told you it was his idea; right?

23 A. Yes.

24 Q. And you agreed with him that it was his  
25 idea?

1 A. Crazo's?

2 Q. Yes.

3 A. No, he never told me that it was his idea.

4 Q. Well, he was trying to say it was other  
5 people's idea?

6 A. Yes.

7 Q. But you don't know that?

8 A. He told me it was coming from Pup.

9 Q. But you didn't know if that was true?

10 A. I believed him because he was privy to  
11 that information.

12 Q. My question is: You didn't know that was  
13 true?

14 A. No.

15 Q. You just believed him?

16 A. Yes.

17 Q. That was his plan?

18 A. Yes.

19 Q. And you said, "Wow, since you brought up  
20 this plan, I've been fantasizing about it."

21 A. Yes.

22 Q. And you'd never fantasized about that  
23 until Mr. Duran brought it up to you, had you?

24 A. I don't know about fantasizing, but I  
25 hadn't thought about it until, you know -- the last

1 time I thought about it was when I was talking with  
2 Pup in 2013. I hadn't thought about it after that  
3 until 2015, when --

4 Q. And the conversation in 2013 is the  
5 conversation that never made it into any of the FBI  
6 reports?

7 A. It did. It's somewhere. It has to be,  
8 because I said it.

9 Q. Okay. When you were talking with Eric  
10 Duran, you thought you were talking in confidence;  
11 correct?

12 A. Right.

13 Q. You didn't know you were being recorded?

14 A. No.

15 Q. And I mean, I asked you earlier today --  
16 you said you didn't listen to all the recordings;  
17 you got a little bored with it?

18 A. Right.

19 Q. But you know now that you were being  
20 recorded?

21 A. Yes.

22 Q. Now, there came a time in 2015 when Mr.  
23 Baca returned to New Mexico; correct?

24 A. Yes.

25 Q. And you didn't know it at the time, but

1 you had been strategically placed next to Eric Duran  
2 and Mr. Baca at Level 6?

3 A. Yes.

4 Q. And Mr. Duran was still recording the  
5 three of you?

6 A. Yeah. I didn't know at the time.

7 Q. You didn't know that at the time?

8 A. No.

9 Q. But you know it today?

10 A. Yes.

11 Q. Did you listen to those recordings?

12 A. No.

13 Q. Are you aware that there are absolutely no  
14 recordings of you talking to Mr. Baca about the  
15 Marcantel --

16 A. Yeah, we never -- because he was on the  
17 other side of Crazo, and I was on this side of  
18 Crazo, and we didn't talk on the tier, hardly.

19 Q. Didn't talk about it at all?

20 A. At all.

21 Q. And your curiosity didn't get the better  
22 of you ever to talk to him about it?

23 A. By that time, I was already suspicious of  
24 Eric and people around me, because of certain things  
25 that the FBI had done.

1 Q. Already.

2 A. Already. So I had a suspicion because of  
3 the way the letter came back to me and things like  
4 that. I was already trying to be quiet as much as I  
5 could at that time.

6 Q. But you were talking to Adam Vigil?

7 A. Yes, by that time, I was, because I had a  
8 feeling something was going to go down.

9 MR. LOWRY: May I have a moment, Your  
10 Honor?

11 THE COURT: You may.

12 MR. LOWRY: I don't have any other  
13 questions, Your Honor.

14 THE COURT: Thank you, Mr. Lowry.  
15 Mr. Villa.

16 MR. VILLA: Yes, Your Honor. Thank you,  
17 Your Honor.

18 THE COURT: Mr. Villa.

19 CROSS-EXAMINATION

20 BY MR. VILLA:

21 Q. Good afternoon, Mr. Martinez.

22 A. Good afternoon.

23 Q. Right before you cooperated with the  
24 Government in this case, what was your status in the  
25 SNM?

1 A. I was a leader.

2 Q. What did they call you? They didn't call  
3 you leader; right? They called you something else?

4 A. Shadow.

5 Q. No, that was your nickname. Were you a  
6 shot-caller?

7 A. There was no other names. It was just --  
8 to the youngsters is big homie.

9 Q. A big homie?

10 A. Yeah.

11 Q. So if you ordered somebody to do  
12 something, they're supposed to do it?

13 A. Right.

14 Q. And that's, I guess, a step above being a  
15 soldier?

16 A. Yes.

17 Q. Now, Mario Rodriguez -- you testified a  
18 little bit about him and a conversation you had with  
19 him. I don't want to get into what the conversation  
20 was, but you had a conversation with Mario Rodriguez  
21 after the Javier Molina hit; correct?

22 A. Yes.

23 Q. Was that in 2015?

24 A. 2014, I believe.

25 Q. 2014. Can I see Government's Exhibit -- I

1 believe it's 586, please. Government's 586. It's  
2 already been admitted. That's Mario Rodriguez?

3 A. Yes.

4 Q. Also goes by Blue?

5 A. Yes.

6 Q. That's the person you were having a  
7 conversation with?

8 A. Yes, in the yard.

9 Q. In the yard at PNM North?

10 A. Yes, PNM North.

11 Q. So when you're at PNM North, you guys  
12 aren't actually in the same yard; you're talking  
13 between cages; right?

14 A. Cages, yes.

15 Q. And at PNM North, that's where you have  
16 these conditions of confinement that you were trying  
17 to get away from? You're talking about it with Mr.  
18 Lowry; right?

19 A. Yes.

20 Q. Can you tell the jury just briefly what  
21 those conditions of confinement are like?

22 A. They had us in restriction; like we  
23 couldn't have visits, phone calls. Just restricted  
24 movement. We couldn't go outside with no one else  
25 but ourselves. Real restrictive.



1 Q. That's what they called at least at that  
2 time Level 6; right?

3 A. Well, at that time, again, the Level 6,  
4 the Level 6 inmates had it better than us.

5 Q. When you say "us," you're talking about  
6 the SNM, members of the SNM?

7 A. Yes, they called it the SNM pods. So they  
8 had us in one pod where we could only go outside by  
9 ourselves; take, I think it was, showers three times  
10 a week. It was -- we were restricted.

11 Q. Let me ask you about that. You get a  
12 shower three times a week?

13 A. Right.

14 Q. How often did you get to go outside for  
15 this yard time?

16 A. At the very beginning, for the first 60  
17 days we didn't get yard at all.

18 Q. Just stuck in the cell for 60 days?

19 A. Stuck in the cell.

20 Q. After the 60 days, then how often did you  
21 get to go?

22 A. Then we started going out five days a  
23 week, but it was just by ourselves.

24 Q. And when you go outside, how long did you  
25 get to be outside?

1 A. For an hour.

2 Q. So one day an hour of rec?

3 A. An hour a day from Monday through Fridays.

4 Q. Five days a week. Okay. The rest of the  
5 time, you're in the cell?

6 A. Yes.

7 Q. Other than your shower?

8 A. That's right.

9 Q. How big is the cell?

10 A. I don't know. It's pretty small.

11 Q. When you say "pretty small," can you give  
12 the jury an idea -- I mean, you're about, what, 6  
13 foot tall?

14 A. Yeah, about 5'10".

15 Q. So if you lie down on the ground, how many  
16 of you can fit longways in that cell?

17 A. One and a half of me.

18 Q. Okay. So give or take, maybe it's --

19 A. About one of me this way, so --

20 Q. One of you widthwise?

21 A. Yeah.

22 Q. So it's about 6 feet tall, give or take,  
23 wide, and 10 feet long?

24 A. Yes.

25 Q. And you're just in there all day long?

1           A.     Yes.   And the restrictions lasted for  
2   about a year.   And then they let us out and we  
3   started going out to the yard more often with each  
4   other, with other pods.

5           Q.     If I understood your testimony correctly,  
6   this happened to you after Javier Molina was  
7   murdered; right?

8           A.     That's right.

9           Q.     And you weren't at Southern New Mexico  
10   Correctional Facility here in Las Cruces when that  
11   happened?

12          A.     No.

13          Q.     So it just happened to -- everybody that  
14   was SNM got put in these conditions?

15          A.     Right.

16          Q.     And you didn't like that.

17          A.     No.

18          Q.     While you were in these conditions for  
19   that year period, how did it affect you?

20          A.     Like mentally?

21          Q.     Yes.

22          A.     It made me angry, anxious; didn't trust  
23   the administration, things like that.

24          Q.     All right.   So it's this period of time  
25   shortly after the Javier Molina murder in 2014 when

1 you have this conversation with Mario Rodriguez;  
2 right?

3 A. Yeah. It's like later in the year. He  
4 didn't arrive there right away. I think they  
5 brought him later on and put him in the next pod,  
6 next to me. He wasn't in our pod.

7 Q. Just happenstance, you were next to him in  
8 the yard to talk --

9 A. Yeah, we'd see each other, especially in  
10 the winter. Hardly anybody goes out, so when we  
11 would come out together, it was because no one else  
12 would go outside, so we'd be out there.

13 Q. At that point in time, what was Mario  
14 Rodriguez's status in the SNM? Was he a shot-caller  
15 or a big homie?

16 A. He had a lot of respect, yeah. Yes.

17 Q. Had a lot of respect?

18 A. Yes.

19 Q. Would you say he was trying to move his  
20 way up the ladder in the SNM?

21 A. I think, yeah, possibly, yeah.

22 Q. So after this conversation, you and Mario  
23 agreed to put a hit on Ron Sanchez?

24 A. Yes.

25 Q. And you wanted to put a hit on Daniel

1 Sanchez, but you couldn't, so you did it on Ron  
2 Sanchez.

3 A. Yes.

4 Q. And Mario Rodriguez didn't have any  
5 problem with that; he agreed.

6 A. Well, it was actually coming from him.

7 Q. It was his idea?

8 A. Yes.

9 Q. To put a hit on Daniel Sanchez?

10 A. Yes.

11 Q. Now, a little bit later in this case,  
12 isn't it true that Mr. Rodriguez wrote you a letter?

13 A. Yes.

14 Q. And can I --

15 MR. VILLA: Your Honor, I'd like to have  
16 this marked as Defendants' Exhibit next, which is  
17 FQ. May I approach?

18 THE COURT: You may.

19 BY MR. VILLA

20 Q. Mr. Martinez, I've handed you a document  
21 that I've marked for identification as Defendants'  
22 Exhibit FQ. Is this the letter Mr. Rodriguez wrote  
23 to you?

24 A. Yes.

25 Q. Can you tell me when you received this

1 letter?

2 A. It was right after we got arrested in this  
3 indictment right here.

4 Q. So you got arrested in this case?

5 A. In this case, yes.

6 Q. And Mr. Rodriguez wrote you a letter. How  
7 did you receive it?

8 A. Can I reread it?

9 Q. You can read it to yourself. Don't read  
10 it out loud.

11 A. Yeah.

12 Q. That's the letter?

13 A. Yeah.

14 Q. Actually, it's front and back, if you want  
15 to look on the back side, and make sure that's also  
16 part of the same letter.

17 A. Yeah. I remember this.

18 Q. That's the same one we're talking about?

19 A. He sent it to me when we were in Otero.

20 Q. Otero. Oh, just down the way here?

21 A. Right.

22 Q. And how did you know that it was from  
23 Mr. Rodriguez?

24 A. Well, because he was my neighbor, and he  
25 told me to send his line -- send my line, and he

1 sent it to me.

2 Q. Okay. So a line is like a string that you  
3 send to the cell next to you?

4 A. Yeah, to fish to my neighbor. And he sent  
5 me the letter.

6 Q. Let me just make sure that the jury  
7 understands and that I understand. You put your  
8 line, and you send it over to the cell next to you?

9 A. Yes.

10 Q. And Mario Rodriguez was next to you at  
11 that time?

12 A. Right. We were in our own cells, and I  
13 sent the line to his cell, and he sent me back the  
14 letter on the line, pulling the string.

15 Q. You just pull it underneath your door?

16 A. Right.

17 Q. And I believe that on approximately  
18 January 21, 2016, you provided that letter to the  
19 FBI; correct?

20 A. Yes.

21 MR. VILLA: Your Honor, I would move to  
22 admit Defendants' FQ.

23 THE COURT: Any objection, Mr. Castellano?

24 MR. CASTELLANO: No objection, Your Honor.

25 Can I just get the Bates stamp from the letter?

1 MR. VILLA: Yes, it's 31610 and 31611.

2 THE COURT: Any objection from any other  
3 defendant?

4 MS. DUNCAN: No, Your Honor.

5 THE COURT: Not hearing any objection,  
6 Defendants' Exhibit FQ will be admitted into  
7 evidence.

8 (Defendants' Exhibit FQ admitted.)

9 MR. VILLA: May I approach, Your Honor?

10 THE COURT: You may.

11 BY MR. VILLA:

12 Q. Mr. Martinez, I'm going to put it up on  
13 the Elmo. So I'm showing you, there is the exhibit  
14 sticker, FQ, and the letter actually starts on the  
15 back page; correct? So what I'm showing you here is  
16 Bates No. -- you see the numbers I'm pointing to at  
17 the bottom, 31610?

18 A. Yes.

19 Q. That's the front -- first page of the  
20 letter; correct?

21 A. Yes.

22 Q. And in the first sentence Mr. Rodriguez is  
23 writing you to say: "You're not going to take a  
24 plea are you"; right?

25 A. Yes.



1 Q. So he's trying to ask you about taking a  
2 plea in this case?

3 A. Right.

4 Q. And a little further down -- let's see  
5 here, he asks here, "You're not going to dive back  
6 into the Bible, are you?" Do you see that question?

7 A. Yes.

8 Q. Do you know why he asked you that?

9 A. Yeah, because I was into the Bible at one  
10 time, reading.

11 Q. And in terms of, you know, the SNM, is  
12 there a specific meaning into that when he's asking  
13 you "You're not going to dive back into the Bible"?

14 A. Because once I -- I did that for, like,  
15 nine years, and just stayed out of the politics.  
16 That's what he's talking about.

17 Q. So if you're into the Bible or into  
18 religion, you sort of have a pass, if you will, of  
19 having to get into SNM politics?

20 A. Well, it depends on the reasoning. I  
21 mean, if you're a rat, you don't get a pass. But if  
22 you haven't done nothing, you're all right.

23 Q. I see. And after asking you about if  
24 you're going to get into the Bible, he says,  
25 "Because we're going to need you, ese. We want to

1 rebuild this fucking car and make it stronger than  
2 it has ever been."

3 Did I read that right?

4 A. Yes.

5 Q. What did you understand him to mean there?

6 A. That they want it done, they want it  
7 finished, they wanted to keep going the route they  
8 were going.

9 Q. Which route?

10 A. To keep building on the SNM to keep  
11 structuring and restructuring and so on that we'd  
12 been doing for the last 20 years, yes.

13 Q. That's what you thought Mario Rodriguez  
14 wanted?

15 A. Yes. Nonstop.

16 Q. All right. Let's see. I'm going to flip  
17 over now to the second page. Do you see here at the  
18 bottom, 31611. That's the second page; correct?

19 A. Yes.

20 Q. I'm underlining right there the way that  
21 the letter is signed. Do you know what that says?

22 A. Yeah, "Amor."

23 Q. What does that mean?

24 A. Respect. It's -- amongst carnals -- it  
25 means love in Spanish, but we use it in terms of

1 recognizing one another.

2 Q. I see. Let me direct your attention to  
3 this line here. It says, "I've never see it running  
4 right, homie, and in order to see it, I'm willing to  
5 put my pride aside" --

6 I messed this up here. Let me try it  
7 again. "I'm willing to put my pride aside and  
8 follow orders from someone who is for bringing us  
9 together. I just want to see that my life and work  
10 is worth something bigger than me." Do you see that  
11 there?

12 A. Yes.

13 Q. What did you understand him to be talking  
14 about?

15 A. He was a soldier, and he was willing to do  
16 whatever to make -- you know, to make everything  
17 right.

18 Q. And this part here, "I've never see it  
19 running right, homie"?

20 A. Well, he was a youngster when he got in,  
21 and you know, the SNM wasn't perfect or one big old  
22 mafia, but it was a killing machine and he knew that  
23 that's what he got into. So it might have not been  
24 running the way he wanted it, the way all of us  
25 thought, but we were all together when it counted.

1 Q. So it's fair to say you understood this  
2 letter to mean, "Don't take a plea; let's keep this  
3 thing going; let's fix it; let's make it better"?

4 A. Yes.

5 Q. And that's what Mario Rodriguez was  
6 telling you he wanted to do at that time?

7 A. Yes.

8 MR. VILLA: May I have just a moment, Your  
9 Honor?

10 THE COURT: You may.

11 BY MR. VILLA:

12 Q. Mr. Martinez, before you testified in  
13 court and during lunch, you're housed downstairs,  
14 aren't you?

15 A. Yes.

16 Q. And who have you been housed with  
17 downstairs today?

18 A. By myself.

19 Q. Are there other cooperating witnesses down  
20 there that you've seen?

21 A. Yeah, they're in the other cells, where I  
22 can't talk to them.

23 Q. Who have you seen? Have you seen Eric  
24 Duran?

25 A. Yeah, he's down there somewhere.

1 Q. Anybody else?

2 A. Mario, I think, is down there.

3 Q. But it's your testimony you can't talk to  
4 them?

5 A. I can't talk to them.

6 Q. And when I say "can't," meaning you're not  
7 allowed to or you're physically unable?

8 A. Both.

9 Q. Both?

10 A. Both. I'm not allowed to, and I'm  
11 physically unable to talk to them.

12 Q. But there have been times in this case  
13 when you were allowed to talk to the other witnesses  
14 that were working with the Government; true?

15 A. True.

16 Q. You all were housed together; right?

17 A. Yes.

18 Q. And I think you testified a little bit  
19 about some of this. You said you were incarcerated  
20 in the Sandoval County Detention Center?

21 A. Yes.

22 Q. And at that time you were with some of the  
23 other cooperating witnesses?

24 A. That's correct.

25 Q. Was that the time when you reset your

1 tablet?

2 A. I did it before that.

3 Q. When you were at Sandoval County or  
4 somewhere else?

5 A. I was at PNM North when I reset it.

6 Q. All right. And there was a point in time  
7 when you were with Jerry Armenta. I think you  
8 testified he showed you how to use a tablet, or you  
9 let him use your tablet?

10 A. Yes, both.

11 Q. Both things. Where was that?

12 A. In Sandoval.

13 Q. In Sandoval County Detention Center. And  
14 you know Jerry Armenta is working with the  
15 Government; right?

16 A. Right.

17 Q. Did Jerry Armenta ever use your tablet to  
18 look for pornography for himself?

19 A. I mean, I let him do it to get mine. I  
20 don't know what he looked at on himself, because he  
21 had it overnight until the next morning.

22 Q. All right.

23 A. At the very beginning, because he was --  
24 his cell was the only cell that got Wi-Fi at the  
25 time.

1 Q. Do you know if, during that overnight  
2 period, he used your tablet to look at child  
3 pornography?

4 A. Not that I know of. There is none on my  
5 tablet.

6 Q. Did he ever let you use his tablet?

7 A. No.

8 Q. While you were at Sandoval County  
9 Detention Center, I think you testified to this jury  
10 that you got Suboxone; right?

11 A. Yes.

12 Q. And as a matter of fact, you bought  
13 Suboxone from Timothy Martinez, didn't you?

14 A. Yes.

15 Q. Timothy Martinez, who is also working with  
16 the Government?

17 A. That's correct.

18 Q. And this is a time when you are both in  
19 Sandoval County, you guys have already made the  
20 decision to go work for the Government; correct?

21 A. That's right.

22 Q. And so after that, you're together in  
23 Sandoval County, and Timothy Martinez is still  
24 selling Suboxone?

25 A. Yes.

1 Q. At least he sold it to you; right?

2 A. Yes.

3 Q. Now, he's testified to this jury that one  
4 of the reasons he wanted to --

5 MR. CASTELLANO: Objection, Your Honor.  
6 Referencing other witness' testimony violates the  
7 rule against exclusion of witnesses.

8 THE COURT: Well, let's not do that.

9 MR. VILLA: That's fine, Your Honor.

10 BY MR. VILLA:

11 Q. Let me ask you this: When he sold you the  
12 Suboxone, Mr. Martinez, did he tell you that he was  
13 walking with the Lord?

14 MR. CASTELLANO: Objection, calls for  
15 hearsay.

16 MR. VILLA: Well, I think it would go  
17 towards impeaching Mr. Martinez' direct testimony to  
18 the jury.

19 THE COURT: Sustained.

20 BY MR. VILLA:

21 Q. How many times did Mr. Martinez sell you  
22 Suboxone?

23 A. I couldn't count. I wouldn't know.

24 Q. A lot of times, then?

25 A. A few times, yeah.



1 Q. I mean, it would be more than a few, if  
2 you're not able to count; wouldn't you agree?

3 A. Right.

4 Q. How did you purchase the Suboxone?

5 A. Either money that I had on my books or  
6 with art. I draw art. I did a lot of art.

7 Q. So you draw art and use that as currency?

8 A. Yes.

9 Q. Or money that you had on your books?

10 A. Right.

11 Q. And you were given money by the FBI for  
12 your cooperation in this case, weren't you?

13 A. Yes.

14 Q. And that money was put on your books?

15 A. Yes.

16 Q. You also bought Suboxone from Jerry  
17 Montoya, didn't you?

18 A. Yes.

19 Q. And Jerry Montoya is working with the  
20 Government. You know that?

21 A. Yes.

22 Q. You were housed with him at the Lea County  
23 Detention Facility?

24 A. Yes.

25 Q. After you guys had both decided to

1 cooperate with the Government; right?

2 A. Right.

3 Q. And Mr. Montoya sold you some Suboxone.

4 How did you pay for that?

5 A. Same way -- well, actually, with him, it  
6 was a little bit different. I didn't really buy  
7 from him too much. He would just give it to me.

8 Q. So it's your testimony that you never  
9 bought Suboxone from Mr. Montoya?

10 A. No, I bought some, but not often. Like,  
11 just maybe \$20 here, \$20 there, I'd pitch in. And  
12 we, you know, get a good little issue, and then that  
13 would be it.

14 Q. I understand. So with Mr. Martinez, you  
15 were always purchasing it?

16 A. Right.

17 Q. With Mr. Montoya, sometimes you purchased  
18 it and sometimes he just gave it to you?

19 A. Right.

20 Q. And when you purchased it from Mr.  
21 Montoya, you also used money that was on your books?

22 A. Yes.

23 MR. VILLA: That's all I have.

24 THE COURT: Thank you, Mr. Villa.

25 Ms. Jacks, do you have cross-examination?

1 MS. JACKS: Thank you, Your Honor.

2 CROSS-EXAMINATION

3 BY MS. JACKS:

4 Q. I just have a few questions, Mr. Martinez.  
5 I want to talk to you about this paperwork on Javier  
6 Molina that you've told us today that you say you  
7 got. And you're claiming this was mailed in to you  
8 while you were housed at PNM North?

9 A. Yes.

10 Q. And I think you described the paperwork as  
11 about two or three pages?

12 A. That's correct.

13 Q. Containing a little of this and that and  
14 things you can't remember?

15 A. Yes, it was a bench warrant, is what I  
16 remember.

17 Q. You think it was a bench warrant or it  
18 was --

19 A. I know it was a warrant.

20 Q. So it was some sort of legal document?

21 A. Yes.

22 Q. Who do you claim mailed this in to you?

23 A. I don't.

24 Q. So it comes from a mystery person?

25 A. Yes.

1 Q. And in fact, today is the first time in  
2 the entire investigation of this case that you've  
3 claimed that you saw some sort of paperwork on  
4 Mr. Molina, isn't it?

5 A. No, I've already told the Government this.

6 Q. You didn't -- well, you didn't tell the  
7 Government that on December 3rd of 2015, did you?

8 A. Yes, I did.

9 Q. You didn't tell the Government that on  
10 December 17th of 2015, did you?

11 A. Yes, I did.

12 Q. You didn't tell that to the Government on  
13 January 21st of 2016, did you?

14 A. Yes.

15 Q. You told them?

16 A. Yes.

17 Q. You didn't tell the Government on  
18 September 15th of 2016, did you?

19 A. Yes, I did.

20 Q. You didn't tell them on December 2nd of  
21 2016, did you?

22 A. Yes.

23 Q. And you didn't tell them on January 22nd  
24 of 2018, did you?

25 A. Yes.

1 Q. So it's your testimony you were  
2 interviewed by the Government on at least six  
3 separate occasions in preparation for this trial?

4 A. Yes.

5 Q. Is that right?

6 A. Yes.

7 Q. And it's your testimony here at this trial  
8 that on every one of those six occasions, you told  
9 them that some mystery person mailed in some  
10 paperwork on Javier Molina while you were housed at  
11 PNM North?

12 A. Yes, I told them that, ma'am.

13 Q. And specifically on December 12th of 2016,  
14 you were asked about the Molina homicide and  
15 paperwork on Mr. Molina, weren't you?

16 A. Yes.

17 Q. And you were asked and interviewed in the  
18 presence of three other Government witnesses,  
19 weren't you?

20 A. Three other --

21 Q. -- government witnesses. Back on December  
22 2nd of 2016, didn't Bryan Acee --

23 A. Yes.

24 Q. -- interview you in the presence of three  
25 other Government witnesses?

1 A. Yes.

2 Q. And that would be Benjamin Clark?

3 A. Yes.

4 Q. Jerry Armenta?

5 A. Yes.

6 Q. Robert Martinez; right?

7 A. Yes.

8 Q. And you?

9 A. Yes.

10 Q. And the FBI agent sat you all down and  
11 talked to you all together about Molina; right?

12 A. Right.

13 Q. And during that interview, you didn't say  
14 one thing about ever seeing any paperwork on  
15 Mr. Molina?

16 A. At that time, no.

17 MS. JACKS: I have nothing further.

18 THE COURT: Thank you, Ms. Jacks.

19 Mr. Castellano, do you have redirect of  
20 Mr. Martinez?

21 MR. CASTELLANO: Yes, Your Honor.

22 THE COURT: Mr. Castellano.

23 REDIRECT EXAMINATION

24 BY MR. CASTELLANO:

25 Q. Mr. Martinez, do you remember meeting with

1 me before trial?

2 A. Yes.

3 Q. And do you remember making a statement  
4 about having received the paperwork through legal  
5 mail?

6 A. Yes.

7 Q. And so when Mr. Lowry said that he was  
8 surprised, it was the first time that he'd heard  
9 that, you said you were surprised that this is the  
10 first time he heard that.

11 A. Yes.

12 Q. So were you aware that your statement was  
13 disclosed to the defense on January 28th of this  
14 year?

15 A. Yes.

16 Q. And just to make sure --

17 MR. CASTELLANO: May I approach the  
18 witness, Your Honor?

19 THE COURT: You may.

20 BY MR. CASTELLANO:

21 Q. I'm showing you a letter dated January 28,  
22 2018. I'll have you review that to yourself.

23 A. Yeah, that's --

24 Q. So do you remember disclosing that before  
25 this trial even began, Mr. Martinez?

1 A. Yes.

2 Q. Now, also going back to December 2nd of  
3 2016, do you remember what your response was to the  
4 question: "Who called the green light on Javier  
5 Molina and when was it called?"

6 A. Yes.

7 Q. And what was your response, as best as you  
8 remember?

9 MR. LOWRY: Objection, Your Honor. That's  
10 hearsay.

11 THE COURT: What are you trying to prove  
12 with --

13 MR. CASTELLANO: Only that the statement  
14 was made, Your Honor. The defense has alleged that  
15 he made no statement. And this is only to clarify  
16 that the statement was actually made. It's not for  
17 the truth.

18 MR. LOWRY: Your Honor, may we approach?

19 THE COURT: Well, you can approach.

20 (The following proceedings were held at  
21 the bench.)

22 THE COURT: Aren't you trying to establish  
23 the truthfulness of this statement? You're trying  
24 to get it for the truth. You're not trying to  
25 impeach him.



1 MR. CASTELLANO: He's testified to this  
2 statement, so it's come in for the truth. The  
3 defense has alleged he never made the statement to  
4 the FBI. He actually made it in December of 2016.

5 MR. LOWRY: No.

6 MR. CASTELLANO: The allegation was,  
7 you've never told the FBI this; isn't it true? So  
8 the question is for the purpose that he had, in  
9 fact, given that information to the FBI over a year  
10 ago.

11 MR. LOWRY: Your Honor --

12 THE COURT: Are you trying to fit it in a  
13 prior consistent statement to avoid the hearsay?

14 MR. CASTELLANO: No, it wouldn't count as  
15 a prior consistent statement, because he was already  
16 cooperating. But it does rebut the claim that he  
17 never made the statement when it was documented in  
18 an FBI 302. He's already testified to -- the  
19 testimony has already come in.

20 MR. LOWRY: Your Honor, may I be heard on  
21 that real quick?

22 THE COURT: You may.

23 MR. LOWRY: Your Honor, my question very  
24 carefully presented to him whether he told the FBI  
25 that he had met with Eric Duran and Anthony Ray Baca

1 when the statement was made that -- Mr. Castellano  
2 is referring to the statement that he told the FBI.

3 THE COURT: Well, I think the best way to  
4 deal with this is let him do his thing, and let you  
5 come back and make your point.

6 MR. LOWRY: But this is coming in for the  
7 truth and it misses the point. And I think it's  
8 confusing, because the point is, was a third party  
9 present. All he is trying to do is rehabilitate him  
10 to rehabilitate this report.

11 MR. CASTELLANO: The confusion came from  
12 the allegation that he never made the statement, or  
13 it was never documented in the FBI report. And this  
14 is going to prove that it was made and documented.

15 MR. LOWRY: That he made the statement  
16 with Duran.

17 THE COURT: What you're arguing about now  
18 is just whether the statement was made, not whether  
19 it's true or not. And so I think whether the  
20 statement is made or not, if you want a limiting  
21 instruction on it -- because the Government doesn't  
22 care whether it's coming in for the truth. I can  
23 give it, and then you can come back and make your  
24 point. But it's whether it was ever made or not.  
25 So I think I'm going to allow the Government to do

1 their thing and give a limiting instruction, since  
2 they don't want this in for the truth, and you can  
3 do whatever you want to do on recross.

4 MR. LOWRY: Here's the point: I don't  
5 disagree with Mr. Castellano that he elicited that  
6 on direct, so I don't dispute that he made that  
7 statement. I just dispute that he made it in the  
8 company of Eric Duran.

9 THE COURT: Okay. You can recross him on  
10 that.

11 MS. DUNCAN: Can I confer with Mr. Lowry  
12 for one moment?

13 THE COURT: What's the date of this  
14 statement?

15 MR. CASTELLANO: December 2, 2016.

16 MR. LOWRY: Can we talk about the  
17 paperwork?

18 MR. CASTELLANO: Actually, the hit was  
19 called --

20 MR. LOWRY: I don't dispute that.

21 MR. CASTELLANO: But he did dispute it in  
22 his cross-examination of the witness.

23 MR. LOWRY: I disputed it, that he --

24 THE COURT: I'll give you a chance to  
25 recross, if you want to go back into this ground.

1 But I'm going to instruct the jury to the extent  
2 that these statements are being offered only to  
3 establish whether he made the prior inconsistent  
4 statements or consistent statements, and it's not  
5 for the truth of the matter.

6 MR. LOWRY: Perfect.

7 (The following proceedings were held in  
8 open court.)

9 THE COURT: All right. Ladies and  
10 gentlemen, you're going to hear a statement, and the  
11 only purpose of this is to let you decide whether  
12 Mr. Martinez has made inconsistent statements. The  
13 statement itself is not being offered for the truth  
14 of the matter, and you shouldn't consider it for the  
15 truth of the matter. You should only use it for  
16 determining whether Mr. Martinez made consistent  
17 statements.

18 Mr. Castellano.

19 BY MR. CASTELLANO:

20 Q. Okay, Mr. Martinez, do you recall making a  
21 statement to the FBI on December 2, 2016, in  
22 response to the question: "Who called the green  
23 light on Javier Molina and when was it called?"

24 A. Yes.

25 Q. And do you know whether that's documented

1 in an FBI report?

2 A. Yes.

3 Q. So tell us what it is that you reported to  
4 the FBI on December 2, 2016.

5 A. I told them that me and Pup had a meeting  
6 in 2013. We talked about paperwork on Javier  
7 Molina, and that BB had it, and to get it out of BB  
8 and get that taken care of as fast as possible.

9 Q. I just want to make sure you have this  
10 right. Are you sure that's what was documented in  
11 the 302? I can refresh your recollection.

12 A. You're going to have to refresh me what's  
13 documented. I know what was said.

14 MR. CASTELLANO: May I approach the  
15 witness, Your Honor?

16 THE COURT: You may.

17 BY MR. CASTELLANO:

18 Q. I'm handing you a Bates stamp 20163.  
19 First of all, is that an FBI report?

20 A. Yes.

21 Q. Is your statement documented in that  
22 report?

23 A. Yes.

24 Q. After reviewing that document, does it  
25 refresh your memory about what was documented?

1 A. Yes.

2 Q. What was that?

3 A. It was that it was called a hit one year  
4 before, at least one year before the actual hit  
5 happened.

6 Q. And that was a discussion with who?

7 A. With Pup, and that's exactly what I said  
8 earlier in 2013, when we were in the yard.

9 Q. Do you recall making a statement on  
10 December 17th of 2015 to the FBI about a discussion  
11 you had with Mr. Baca regarding Dwayne Santistevan?

12 A. Yes.

13 Q. What do you recall about making that  
14 statement?

15 A. That he was frustrated with the  
16 administration, and that he wanted them to pay, and  
17 Santistevan's son would have been an easy target  
18 because he was an LT at the Central Correctional  
19 Facility, and -- but either one, either him or his  
20 dad was a target at that time.

21 Q. And are you aware of whether this  
22 statement is documented in an FBI report?

23 A. Yeah, it should be.

24 Q. If you're not sure, I can refresh your  
25 recollection.

1 A. Yeah, I'm pretty sure it is.

2 Q. Now, you mentioned earlier a discussion  
3 about the need for a tabla because people needed to  
4 stop killing each other and spreading rumors. Do  
5 you remember that?

6 A. Yes.

7 Q. Was that killing each other within the  
8 gang?

9 A. Yes.

10 Q. So were the politics of the gang causing  
11 problems internally?

12 A. Yes.

13 Q. And then who was on that tabla that you  
14 mentioned?

15 A. What's that?

16 Q. Who was on that tabla that you mentioned  
17 that was designed for the purpose of reducing this  
18 kind of friction?

19 A. At that time when -- you're talking about  
20 right now?

21 Q. Yes.

22 A. Me, Pup, BB, and Carlos Herrera, and  
23 Dan Dan at the time.

24 Q. There is a question about you wanting to  
25 get moved next to Carlos Herrera because he didn't

1 plot to kill people. Do you remember that?

2 A. Yeah. That was after -- after everything  
3 had went down.

4 Q. Now, the fact that he was on the tabla  
5 with you -- did that resolve him of responsibility  
6 for taking care of snitches?

7 A. Yes.

8 Q. Let me ask, do you know what it means to  
9 resolve the problem?

10 A. No.

11 Q. If he was on the tabla, did that mean he  
12 could overlook the fact that someone was a snitch?

13 A. Oh, no, no. No one can.

14 Q. You were asked about a recording between  
15 yourself and Eric Duran. Do you remember that?

16 A. Yes.

17 Q. At that time, did Eric Duran capture you  
18 agreeing to kill Mr. Marcantel or Mr. Santistevan?

19 A. Yes.

20 Q. And did you plead guilty to that?

21 A. Yes.

22 Q. And is that what you've told the jury  
23 today?

24 A. Yes.

25 Q. Now, regarding Cheryl Tiller, the police



1 officer that you shot, you indicated that you  
2 initially heard that she killed her ex-boyfriend but  
3 you didn't believe it?

4 A. Right.

5 Q. And then you said something how later on  
6 you did believe it?

7 A. Yes. After the investigation and  
8 everything of all the paperwork came out, yes, then  
9 I found out it was true.

10 Q. And so at that point in her life, was she  
11 also in a lot of trouble?

12 A. Excuse me?

13 Q. At that point in her life, was she also in  
14 a lot of trouble?

15 A. I don't know -- legally, you're talking  
16 about? No, she wasn't in trouble. She could have  
17 got in serious trouble, yeah.

18 Q. Right. So at the point that you were  
19 hanging out with her, had she been caught for any  
20 illegal activity?

21 A. Yeah, she would have been in serious  
22 trouble.

23 Q. Now, you were asked about Styx  
24 dry-snitching on you. Do you remember that?

25 A. Yes.

1 Q. And there is an indication that you had  
2 not killed him, and you said you hadn't had a chance  
3 to kill him. Do you remember that?

4 A. Yes.

5 Q. And if you had been in the same facility,  
6 would you have attempted to kill him for snitching  
7 on you?

8 A. Probably.

9 Q. How did Eric Duran or Crazo and Mr. Baca  
10 get along?

11 A. Real good.

12 Q. Why do you say that?

13 A. That was his buddy. When we were in Level  
14 4 together, Pup made it clear that he was one of the  
15 ones he trusted, and Crazo lived in my pod with me.

16 Q. So did you have any reason to doubt Eric  
17 Duran when he told you that Pup was part of this hit  
18 on --

19 MR. LOWRY: Objection, Your Honor, calls  
20 for speculation.

21 THE COURT: No, I don't think so.  
22 Overruled.

23 BY MR. CASTELLANO:

24 Q. Did you believe Eric Duran?

25 A. Yes.

1 Q. And that's when he was telling you about  
2 things that Pup had told him; is that correct?

3 A. Yes.

4 Q. You were asked about whether or not Mr.  
5 Baca knew that Mr. Marcantel had called him a  
6 crybaby. Do you remember that part?

7 A. Yeah.

8 Q. Did you actually know whether or not word  
9 got back to Mr. Baca about being called a crybaby?

10 A. Not for sure. I was just listening to  
11 Crazo again.

12 Q. Now, you were shown the letters that you  
13 wrote to other SNM members regarding the  
14 conspiracies to murder Mr. Marcantel and  
15 Mr. Santistevan. Do you remember those?

16 A. Yes.

17 Q. Now, did Eric Duran trick you into this  
18 conspiracy to murder these two men?

19 A. No.

20 Q. Had you already agreed that they should be  
21 murdered?

22 A. I already agreed.

23 Q. And in response, is it Mr. Duran who then  
24 convinced you to actually put those ideas into  
25 writing?

1 A. Yes.

2 Q. You indicated that about that time Arthur  
3 Chavez had written you a letter?

4 A. Yes.

5 Q. What do you remember about that letter?

6 A. He -- the first letter he said that he had  
7 been in contact with Pup, and he was -- that he knew  
8 who Pup was, I think, I believe, if I'm not  
9 mistaken, and he's ready and down for whatever. I  
10 really didn't know the guy. I just knew that he  
11 was -- that he knew Pup from somewhere along the  
12 line or something. I didn't know him personally.

13 Q. And when he was ready and down for  
14 whatever, was that in response to either Mr.  
15 Marcantel or Santistevan?

16 A. Yeah. I don't think he worded it exactly  
17 like that, but I know he's -- I'm just summing it  
18 up, his letters, that he was ready for me to give  
19 him orders or tell him whatever needs to be done.  
20 And yes, it was in reference to what we were talking  
21 about Marcantel, the administration getting hit and  
22 the -- mainly Marcantel.

23 Q. Now, Defendants' Exhibit FQ, which is the  
24 letter from Blue?

25 A. Yes.

1 Q. Did you say that you gave that to the FBI?

2 A. Yes.

3 Q. So as part of your cooperation, then, did  
4 you actually turn this over to the Government?

5 A. Right. I was already cooperating at the  
6 time.

7 Q. And so in other words, we know about this  
8 because of you?

9 A. Yes.

10 Q. And at the time you received this letter,  
11 were the federal charges pending?

12 A. Yes.

13 Q. And so even despite the SNM being charged  
14 federally, I think you said earlier that the SNM was  
15 still willing to keep building?

16 A. Yes.

17 Q. And you also told defense counsel the SNM  
18 was a killing machine?

19 A. Yes.

20 Q. Is that true?

21 A. Yes.

22 MR. CASTELLANO: I pass the witness, Your  
23 Honor.

24 THE COURT: Thank you, Mr. Castellano.

25 Mr. Lowry? Ms. Bhalla?

1 MS. BHALLA: Thank you, Your Honor.

2 RECROSS-EXAMINATION

3 BY MS. BHALLA:

4 Q. Good afternoon, Mr. Martinez.

5 A. Good afternoon.

6 Q. Would a leader be in danger for not acting  
7 on orders to hit somebody if there was paperwork?

8 A. Yes.

9 Q. And that leader would then also be subject  
10 to a hit?

11 A. Yes.

12 Q. And that's why there was hit on Carlos  
13 Herrera?

14 A. Yes.

15 MS. BHALLA: Thank you.

16 THE COURT: Thank you, Ms. Bhalla.

17 Mr. Lowry.

18 RECROSS-EXAMINATION

19 BY MR. LOWRY:

20 Q. Arthur Chavez wrote you in response to  
21 what you thought was a letter going out to him?

22 A. He wrote me first, and then, yeah,  
23 something like that. I can't really remember during  
24 that time, but he did write me one letter  
25 explaining -- giving his number and everything,

1 like -- and then the second letter came in the mail,  
2 which was wide open, and that's what alerted me that  
3 something is not right here with this guy.

4 Q. But that was never turned over?

5 A. What do you mean?

6 Q. You didn't share that with Crazo?

7 A. Yeah.

8 Q. Eric Duran?

9 A. He's the one that introduced me to Arthur.

10 Q. Right. But Mr. Duran had a habit of  
11 reading all of the letters onto the recordings;  
12 right?

13 A. I guess, yeah. I don't...

14 Q. That one just skipped the recordings?

15 A. Well, on that letter, one of them letters  
16 were sent directly to me. That's what I'm trying to  
17 say. It got sent directly to me in the regular  
18 prison mail.

19 Q. Right. Now, we talked throughout your  
20 examination about how skilled you are at  
21 manipulation; right?

22 A. I don't know.

23 Q. Well, with Matthew Cavalier you guys made  
24 him think that he was your buddy; right?

25 A. Right.

1 Q. And that's how you got into his cell;  
2 right?

3 A. Yes.

4 Q. And when you assaulted -- was it Mike  
5 Dallas?

6 A. Brett Watson.

7 Q. Brett Watson. Thank you -- you made him  
8 think he was your buddy?

9 A. Yes.

10 Q. And you put a lot of time and energy to do  
11 that; right?

12 A. That's what I was taught.

13 Q. And that's what you did?

14 A. Yes.

15 Q. And you did that even with Cheryl Tiller;  
16 right? You went to give her a hug, but you didn't  
17 want to hug her; you wanted to get her pistol.

18 A. Yes.

19 Q. And every time you did that, you did that  
20 to benefit yourself at the expense of someone else;  
21 right?

22 A. Did it to benefit the SNM.

23 Q. Well, you testified that you killed Cheryl  
24 Tiller on your own?

25 A. I wasn't planning that one. I didn't plan



1 that murder.

2 Q. But you murdered her?

3 A. Right.

4 Q. And when you hugged her, you had no  
5 intention to give her love and affection; you had  
6 every intention to get her gun; right?

7 A. To save my life.

8 Q. You didn't have to kill her to save your  
9 life. You could have driven away.

10 A. That's what it appeared at that time.

11 Q. But nobody came to attack you after you  
12 shot her?

13 A. No, I left.

14 Q. Well, yeah, you thought people, the  
15 Mexican Mafia or something, was going to close in on  
16 you?

17 A. That's what I thought.

18 Q. And that didn't happen, did it?

19 A. No, because I was arrested by the next  
20 day.

21 Q. Arrested by the next day?

22 A. Yes.

23 Q. I thought you said it took three years to  
24 figure it out.

25 A. No, I got arrested right away.

1 Q. But you know how to manipulate the  
2 situation to get what you want, don't you?

3 A. I know how to do what I'm told to do and  
4 what I need to do, yes.

5 Q. Did somebody tell you to give Cheryl  
6 Tiller a hug?

7 A. No.

8 MR. LOWRY: No further questions.

9 THE COURT: Thank you, Mr. Lowry. Anyone  
10 else?

11 Mr. Castellano, do you have redirect?

12 REDIRECT EXAMINATION

13 BY MR. CASTELLANO:

14 Q. On the Cheryl Tiller killing, you said you  
15 got arrested the next day?

16 A. Yeah, around -- well, maybe within 48  
17 hours. I don't know. I know it was real soon.

18 Q. Was it for that crime, or was it for your  
19 parole violation?

20 A. It was a parole violation. And by the  
21 nighttime, I was charged with murder.

22 Q. And then regarding the hit on Carlos  
23 Herrera, it's already been your testimony that the  
24 hit was outstanding for more than a year; is that  
25 correct?

1 A. Yes.

2 Q. And in that year, had Carlos Herrera  
3 killed -- or been involved with the murder on Javier  
4 Molina, as far as you know?

5 A. As far as I know -- what do you mean?

6 Q. In other words, the hit was out --

7 MS. BHALLA: Objection, Your Honor,  
8 speculation. The witness wasn't there.

9 A. Yeah.

10 THE COURT: Well, lay some foundation.

11 BY MR. CASTELLANO:

12 Q. So you knew the hit was outstanding for  
13 more than a year?

14 A. Right.

15 Q. And in that year, was Mr. Molina killed?

16 A. Yes.

17 Q. The year leading up to the murder?

18 A. Yes.

19 Q. Okay. You know the order first went  
20 out --

21 A. Right.

22 Q. -- that I told you about?

23 A. Yes.

24 Q. How long did it take for Mr. Molina to get  
25 killed?

1 A. Yeah, about a year.

2 Q. And during that year time, was Mr. Herrera  
3 a llavero or a key-holder?

4 A. Yes.

5 Q. So is it safe to say in the time that he  
6 was a llavero, that first year, that Javier Molina  
7 was not killed?

8 A. Right.

9 MR. CASTELLANO: Pass the witness, Your  
10 Honor.

11 MS. BHALLA: Your Honor, may I ask a few  
12 very briefly, Your Honor?

13 THE COURT: Yes. Let's do it after the  
14 break, though.

15 All right. We'll be in recess for 15  
16 minutes.

17 (The jury left the courtroom.)

18 THE COURT: All right. We'll be in recess  
19 for about 15 minutes.

20 (The Court stood in recess.)

21 THE COURT: Let's go on the record.  
22 Anything we need to discuss before we bring the jury  
23 in?

24 I am going to be able to supply you with a  
25 copy of the color picture. So Deputy Mickendrow has

1 let me look at it, and said I can make copies of it.  
2 So we'll get one and we'll mark it as Exhibit N, as  
3 in Nancy, to the Clerk's minutes. So it will be  
4 marked there, as well.

5 Anything else we need to discuss?

6 MS. DUNCAN: Your Honor, I'm not sure if  
7 we're going to get to him today, but I know the  
8 Government has witness Mario Montoya on the witness  
9 list for today. We had submitted some redactions to  
10 the Court for transcripts involving Mr. Montoya.  
11 And there is at least one transcript that we missed;  
12 we missed some redactions that we wanted to suggest  
13 to the Court. So I'm hoping we can address that  
14 before that particular recording is played.

15 THE COURT: All right. Do you have those  
16 here?

17 MS. DUNCAN: I do. It's Government's  
18 Exhibit 395. And --

19 THE COURT: Is Mario going to be next?  
20 No?

21 MS. ARMIJO: No, Your Honor. We have  
22 three other witnesses before him.

23 THE COURT: Okay.

24 MS. DUNCAN: It may not even happen.

25 MS. ARMIJO: So it depends on how

1 productive we are this afternoon.

2 THE COURT: All right. So give me what  
3 the redactions are.

4 MS. DUNCAN: So on page number 17 -- so I  
5 think it starts on page 17306, and Mr. Montoya says,  
6 "And what about Dan Dan and them, and where are they  
7 at?"

8 And so we would ask the Court to redact  
9 everything below that. And it continues onto the  
10 next page, 17307, which is redactions that we  
11 actually proposed to the Court when we filed our  
12 objections.

13 THE COURT: Okay.

14 MS. DUNCAN: Then on page 17 -- I can give  
15 this to you to look at later.

16 (A discussion was held off the record.)

17 MR. CASTELLANO: Your Honor, I think with  
18 this recording, I was only going to play off of  
19 pages 22, 23, and the top of 24. We can still  
20 discuss redactions in case the whole thing is moved  
21 in, and we only play a portion.

22 (A discussion was held off the record.)

23 MS. DUNCAN: It sounds like Mr. Castellano  
24 is going to play a portion of the transcript that  
25 we're not going to object to. So we may be able to

1 figure this out.

2 THE COURT: Okay.

3 MR. CASTELLANO: So the only question is  
4 if we introduce it in its entirety; if we do that,  
5 we'll still need to make redactions before it goes  
6 to the jury.

7 THE COURT: Okay. Well, if you're not  
8 going to play it to the jury, you may not care.

9 MR. CASTELLANO: That's correct. So what  
10 happens is, if we move the entire recording, and  
11 only play a portion, the entire recording would  
12 still go to the jury. So there may still be the  
13 need for redactions, is what I'm saying.

14 MS. DUNCAN: Could you just move into  
15 evidence the part of the recording you're planning  
16 to play for them and then just exclude the rest of  
17 it?

18 MR. CASTELLANO: Possibly. I need to see  
19 what else is in there.

20 MS. DUNCAN: Okay.

21 THE COURT: All right. Well, get those to  
22 me sooner rather than later, whatever the dispute  
23 is. Because if this is going to come up on Monday,  
24 or even later today, I'm going to need a little bit  
25 of time to look at them.

1 MS. DUNCAN: Okay.

2 MR. CASTELLANO: It will come up soon.

3 Thank you, Your Honor.

4 THE COURT: All right. All rise.

5 (The jury entered the courtroom.)

6 THE COURT: All right. Mr. Martinez, I'll  
7 remind you that you're still under oath.

8 And Ms. Bhalla, you wanted to do some  
9 recross?

10 MS. BHALLA: No, Your Honor. Thank you.  
11 I appreciate it. I'm okay.

12 THE COURT: You're okay?

13 MS. BHALLA: Yes, Your Honor. Thank you.

14 THE COURT: Mr. Lowry.

15 RECROSS-EXAMINATION

16 BY MR. LOWRY:

17 Q. Mr. Martinez, you testified on redirect  
18 that you'd pleaded guilty to this charge; correct?

19 A. Yes.

20 Q. I just want to make sure everybody is  
21 clear. You never agreed with Mr. Baca to do  
22 anything, did you?

23 A. I did agree with him.

24 Q. You didn't agree with him to kill Mr.  
25 Marcantel?



1           A.     Well, I agreed -- well, I couldn't do the  
2 hit without Pup; that's for sure.

3           Q.     Did you ever talk to Mr. Baca about the  
4 Marcantel --

5           A.     Physically, no.

6           Q.     Were you ever near Mr. Baca talking about  
7 killing Mr. Marcantel?

8           A.     No.

9           MR. LOWRY: No further questions, Your  
10 Honor.

11          THE COURT: Thank you, Mr. Lowry.

12          Mr. Castellano, do you have any further  
13 questions of Mr. Martinez?

14          MR. CASTELLANO: No, Your Honor.

15          THE COURT: All right. Mr. Martinez, you  
16 may step down.

17          Is there any reason that Mr. Martinez  
18 cannot be excused from the proceedings, Mr.  
19 Castellano?

20          MR. CASTELLANO: No, sir.

21          THE COURT: How about the defendants? Can  
22 he be excused?

23          MS. BHALLA: Yes, Your Honor.

24          MR. VILLA: Yes, Your Honor.

25          THE COURT: Not hearing any objection,

1   you're excused from the proceedings.   Thank you for  
2   your testimony.

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1 UNITED STATES OF AMERICA

2 STATE OF NEW MEXICO

3

4 C-E-R-T-I-F-I-C-A-T-E

5 I, Jennifer Bean, FAPR, RDR, CRR, RMR, CCR,  
6 Official Court Reporter for the State of New Mexico,  
7 do hereby certify that the foregoing pages  
8 constitute a true transcript of proceedings had  
9 before the said Court, held in the District of New  
10 Mexico, in the matter therein stated.

11 In testimony whereof, I have hereunto set my  
12 hand on this 26th day of March, 2018.

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\_\_\_\_\_  
Jennifer Bean, FAPR, RMR-RDR-CCR  
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